

Mr Allford, you have pleaded guilty to a charge of trafficking in fish, contrary to s 264A(1) of the *Living Marine Resources Management Act* 1995. Between the period 28 January and 22 February 2020 you unlawfully trafficked in 153 rock lobster. Put in simple terms, the offending involved you selling rock lobster to third parties on behalf of your son-in-law. You did not profit from the enterprise. Any monies collected by you were, in turn, given to your son-in-law. Your son-in-law, a Mr Flanagan, is a commercial rock lobster fisherman. During the relevant period he was operating an unlawful fish trafficking business also. He would take rock lobster in excess of his quota allowance. He would also take rock lobster from marine nature reserves so as to obtain a greater quantity of fish. By taking the rock lobster in excess of his quota allowance, and by taking the lobster from prohibited areas, Mr Flanagan was in breach of the provisions of the *Living Marine Resources Management Act*. Each time you assisted him you were also in breach of the same legislation in that you either possessed, processed, sold, delivered the fish from or to another person, and transported the fish from one place to another. At no time did you obtain a fish processing licensing relating to rock lobster, although I note at one point you at least made enquiries as to how you might obtain such a licence, suggesting you were aware that what you were doing was illegal. By assisting your son-in-law as you did, you committed the crime of trafficking in fish.

Your dealings with the 153 rock lobster were as follows. On 27 January 2020, you travelled to Hobart and took possession of a quantity of rock lobster that had been unlawfully obtained by Mr Flanagan. You then contacted a number of associates, asking them if they wanted to purchase the rock lobster. You received from Mr Flanagan 66 rock lobster, and on-sold those lobster to associates. The price charged for each rock lobster varied. Between 10 February and 14 February 2020, you worked as a deck hand for Mr Flanagan. Following that trip, on 15 February 2020 you transported a quantity of rock lobster back to the north-west coast and again on-sold them to a number of associates. The price charged for each rock lobster varied. None of the rock lobster you sold had tags affixed to them as required by the legislation. On 21 February Mr Flanagan travelled from Hobart to your home, bringing with him a further quantity of rock lobster. The two of you then cooked a quantity of rock lobster at your home. This amounts to processing fish for the purpose of the Act. On 21 February you sold 12 rock lobsters to associate. On 22 February you sold a further six rock lobster to different associates.

Section 267 of the *Living Marine Resources Management Act* obliges the Court to impose a special penalty calculated by reference to the value of the fish. The Court has no discretion to reduce or suspend such a special penalty. In this case the required special penalty is \$58,140.

The defendant is 54 years of age. He has a strong work ethic and is currently self-employed as a roof plumber. He has never been without employment, save for a period of two years following a serious motorcycle accident, after which he was prohibited from working because of his health. He has no relevant prior convictions. He has two adult children. One of them is the partner of Mr Flanagan. The defendant came to learn that Mr Flanagan was in considerable financial difficulty. He owed a large sum of money on his fishing quota. The defendant was not initially aware that Mr Flanagan had commenced obtaining additional rock lobster in an unlawful manner. In January 2020 he received a phone call from Mr Flanagan asking him if he knew of anyone who may wish to purchase some rock lobster. The defendant agreed to assist Mr Flanagan, made contact with a number of associates and then made arrangements for the sale of the excess rock lobster. As I have noted, the defendant made no profit whatsoever from

his involvement in this matter. On two occasions when he assisted Mr Flanagan as a deck hand he received some rock lobster from Mr Flanagan in lieu of payment, but he did not receive any money from any of the rock lobster that was on-sold to third parties.

I take into account the defendant's plea of guilty. I accept there was an early indication to the State that the matter would resolve by way of a plea of guilty. There were some discussions, particularly as to the quantity of fish involved which is obviously relevant given the special penalty provisions, that delayed the matter resolving at an earlier time, but there has always been an acceptance by the defendant of his wrong-doing.

Tasmania's fishing resources are very valuable and very vulnerable. They need to be managed and preserved for the benefit of the community and for the benefit of future generations. Strict compliance with the regulatory regime is therefore essential to achieve that purpose and preserve the resource. The flouting of regulatory regimes must be viewed seriously and heavy penalties imposed in order to deter people from acting outside of the law, and to uphold the integrity of the regime. Here, fish were taken unlawfully and in circumstances which involved the potential depletion of the resource in that the fish were taken from a marine reserve. That being said, it is not clear on the evidence that Mr Allford appreciated the extent of Mr Flanagan's unlawful taking of the rock lobster. Mr Allford was very much the "middle man" and there is no evidence to suggest he was part of the original plan to illegally take the additional fish. His liability arises from agreeing to assist Mr Flanagan in on-selling the fish when he was approached by Mr Flanagan to do so. The period of time in which the defendant was involved in the unlawful trafficking of fish was less than one month, and, as I have said, he did not gain financially from his involvement. I think the appropriate course is to impose a conviction and a fine, in addition to the special penalty.

Mr Allford, you are convicted and fined the sum of \$4,000. In addition I order you to pay a special penalty of \$58,140. By law, I may only allow 28 days to pay those sums but you may apply to enter into a repayment arrangement.