5/12/24
Via online portal: haveyoursay.agriculture.gov.au

Re: AMCS submission on draft Commonwealth Fishery Policies Review

Thank you for the opportunity to provide comment on the draft *Commonwealth Fisheries Policies review*.

The Australian Marine Conservation Society has a long history of engagement with Commonwealth fisheries management and contributed to the development of Harvest Strategy Policy (HSP) and Bycatch Policy (BP) and welcome the opportunity to continue to provide our comments into the development of these policies.

Our submission provides general comment on the review of Harvest Strategy and Bycatch Policies, before outlining our specific responses to particular recommendations.

Harvest Strategy Policy comments

Below we set out additional matters requiring incorporation into an updated HSP.

Prescriptive guidance for rebuilding from Limit to Target Reference Point

The current HSP features a lack of prescriptive guidance for rebuilding stocks from a near-overfished state, around the LRP, to a resilient state at around the TRP. In our view the approach in previous Harvest Strategies to only require explicit rebuilding arrangements from below the LRP to that point explains much of the economic and environmental underperformance of Commonwealth fisheries. Restoring more stocks to their most productive and resilient levels in a timely and efficient manner, particularly in the SESSF, is key to the future sustainable supply of domestically wild-caught seafood, wellbeing of regional fishing communities, and provision of wider recreational, indigenous and non-consumptive stakeholder benefits. Importantly, we believe there is far more potential in rebuilding 'underperforming' stocks that have both life history characteristics and history as fishery species that makes them more suitable as a

source of future economic opportunity; as opposed to 'pushing at the margins' to seek to expand exploitation (or again exploit) species with highly vulnerable life history characteristics (such as orange roughy, or many shark species) or associated elevated ecological risks that have already resulted in fishery failures.

Risk allowance for breaching LRP is set too high

The Harvest Strategy Policy Review appears not to deliberately consider or re-evaluate the merit of setting the bar for fishery settings to maintain stocks above the limit reference point (B_{20}) at least 90% of the time. This equates hypothetically to a fishery management approach that allows stocks to reach an overfished level once a decade.We consider it inappropriate to manage a fishery to this level of risk given the backdrop of rapid climate change in some Commonwealth fishery regions; and given the lessons we (should) have learnt about the difficulties and costs of rebuilding stocks in these fisheries.

HSP allows deliberate setting of TACs at a level commensurate with overfishing, even for CD species

TACs have been repeatedly set in recent years at well above RBCs across a range of stocks. Most concerningly, this has included circumstances where overfishing has been allowed to resume on Conservation Dependent (CD) species including school shark and blue warehou (Butler et al., 2024). This is highly inappropriate and requires explicit prohibition in HSP. Additionally, TACs must not be set higher than RBCs in order to 'incentivise' fishing (orange roughy, eastern zone and cascade plateau zone), including through undercatch provisions. It is critical that HSP explicitly requires all sources of fishery mortality to be maintained consistently below that level which meets a CD species' rebuilding target. Where catches fall below this level in any given fishing season the resultant rebuilding must be 'banked'. In some cases rebuilding targets are set decades into the future, in other cases we do not have the tools to understand whether rebuilding targets are being met at all (Butler et al., 2024). We do know that environmental shocks impacting rebuilding are likely and unpredictable on this time scale and so additional resilience is important

Inadequate emphasis on reducing unaccounted fishery mortality

In our view the most important challenges that have arisen in the application of Commonwealth HSP and BP originate in a systemic failure to invest in reducing unaccounted fishery mortality.

This has likely been a major factor in the failure of stocks to recover after TAC reductions; and in an increasing number of stocks with an uncertain or overfished status (Butler 2024). Many of the impacts being attributed to climate change are at least masked, and are certainly exacerbated (and may be caused by) a lack of robust information on all sources of fishery mortality. This relates to discarding in multispecies

quota-managed fisheries in particular (where it is incentivized wherever independent monitoring is inadequate) but may also apply to State, recreational and indigenous fishing sources of additional mortality.

In particular, we note that the SESSF has not been managed in accordance with it's 2005 Ministerial Direction to:

"Enhance the monitoring of fishing activity, for example through increased use of vessel monitoring systems with daily reporting on-board cameras, and observers" (Macdonald, 2005).

Commonwealth fishery status reporting shows that AFMA's monitoring of fishing mortality is declining even in the fishery that most depends upon it:

"The declining quality of total mortality data is particularly evident in the SESSF. The observer program in the SESSF is designed to generate statistically robust estimates of discards for quota species.

However, CSIRO have repeatedly stated that the sampling frame that underpins the estimation of discards is inadequate … For several species, the sample of observed fishing activities has been too low to even attempt to estimate discards." (Butler et al., 2024).

This review applies, in our view, insufficient curiosity or attention to the prospect that unaccounted fishery mortality is perhaps the most pressing issue threatening the successful implementation of HSP. We are concerned that managers may wish to misattribute the cause of failed stock rebuilding to factors outside of their control. This potentially allows failed stock rebuilding to be 'written off' as unmanageable climate impacts that may actually be impacts caused by insufficiently precautionary past fishery management.

With specific regard to accounting for mortality from indigenous fishing, the most appropriate mechanism - given the currently low indigenous fishing activity in many Commonwealth fisheries and potential for misattribution of fishery mortality - is through resource allocation mechanisms, following the development of clear partnership agreements between government and indigenous people.

Bycatch Policy comments

Below we set out additional matters requiring incorporation into an updated Bycatch Policy.

Target of minimizing bycatch must remain

The review must ensure that the current objective to continually work to minimize bycatch endures and is centralized in a revised bycatch policy. A target of working towards zero bycatch represents best practice, and a clear and effective principle in keeping with Australia's status as a responsible fishery manager.

Species requiring conservation should not be managed as a fishery

We remain seriously concerned that the Commonwealth Bycatch policy review seeks to continue to apply a resource harvest management framework to species that have declined (under that framework) to the point where their management needs require application of a conservation management framework, as would automatically occur for terrestrial species in a comparable situation.

A bycatch management approach that treats data-poor, under-researched and weakly monitored byproduct, discard and TEP species as subject to the same decision-making framework as commercial species is destined to fail, as it is currently failing.

Comment on specific recommendations

Setting target reference points

1) **The Policy should reflect that a broader suite of economic benefits to the Australian community are incorporated into biomass TRPs (B_{TARG}), including for consumers, recreational and First Nations fishers.**

We agree. Consideration of 'economic benefits' must also consider real and potential economic costs to the Australian community such as those that have arisen from failures of managers and industry to rebuild and maintain stocks at around the TRP through taxpayer funded fleet rationalization, buyout and other reform, and the impacts on coastal communities whose economic and social wellbeing is connected to a prosperous fishing industry. This context is important in an era of rapid climate change and when the number of overfished Commonwealth stocks is again rising.

2) **The starting point for setting the stock level target reference point (B_{TARG}), when this cannot be reliably modelled, should remain at B_{48}. The Policy should continue to allow for the adoption of a higher or lower TRP in fisheries where there is sufficient information available to demonstrate this would better pursue the objectives of the *Fisheries Management Act 1991*.**

AMCS supports B_{50} as a starting point, however, we note that B_{60} is current best practice and should be applied to stocks particularly sensitive to climate impacts to provide an additional precautionary buffer to environmental change (Roberts *et al*, 2024). More importantly, at whatever point the TRP is set, it should be explicitly done under an objective of delivering Maximum Sustainable Yield plus an additional buffer for

uncertainty of sufficient size to ensure resilience to foreseeable impacts (for example environmental shocks or stock assessment failures). The latter must include any quantified predicted climate impacts plus an additional level of resilience against related uncertainty. The concept of B_{48} as a proxy for Maximum Economic Yield has not delivered results - as evident in the lack of Commonwealth fisheries actually operating with stocks around MEY under this approach. However, it has proven useful as an arbitrary source of additional biomass above MSY in target setting. This is an opportunity for this arbitrariness to be addressed.

In our view the critical opportunity for delivering the maximum benefit to the community and increase the provision and affordability of locally caught seafood will not come from relatively minor changes to TRPs for stocks that are already at a level near a TRP. Instead it will come from rebuilding stocks that are close to or below the LRP rapidly to the target level. The HSP requires greater emphasis on this; including prescriptive guidance to rebuild stocks from the LRP to whatever level the TRP is set at to deliver these benefits.

3) **If the TRP for a stock is changed, the Policy should enable a transition period for implementation to allow the commercial sector to adjust.**

We agree, though there must be no capacity for this transition period to be treated as indefinite.

Multi-species fisheries

4) The Policy should continue to allow for individual stocks in multi-species fisheries to be managed to different TRPs to achieve overall fishery-level objectives.

We agree, though this must be conditional on an explicit prohibition of TRP setting for a given stock that would facilitate overfishing of another stock.

5) The Policy should specifically clarify that all stocks in multi-species fisheries must be maintained above the limit reference point (B_{20}) at least 90% of the time.

We disagree. See our earlier comments in relation to a 90% risk level in relation to LRPs.

In real terms we are likely to see less rigorous stock management (see proposals to introduce an indicator-species assessment approach in the SESSF) in adoption of multi-species fishery assessment and harvest strategy settings in future. The resultant additional risk must be accounted for in multi-species fisheries through application of more conservative LRPs and more precaution in ensuring stocks are maintained above them.

6) The effectiveness of novel management approaches for multi-species fisheries should be tested and compared using Management Strategy Evaluation methods (or suitable alternative such as risk-based evaluation).

We agree. This testing should be accompanied by transparent review that is subject to independent scrutiny and public consultation.

Managing the impacts of climate change and shifting baselines

7) **The Policy should explicitly recognise that baselines are changing for many species and that harvest strategies should adapt accordingly.**

We agree, on the proviso that harvest strategies permit baselines to be shifted only where precautionary safeguards are in place against overexploitation, as per recommendation 9, 12 and 13. In particular, consideration should be given to the standard of evidence required to conclude factors other than fishing are the primary driver of stock decline or failure to recover.

8) **The Policy should continue to allow flexibility in approaches used to account for environmental factors such as climate change in harvest strategies.**

We agree.

9) **Further work is needed to determine the standard of evidence required to conclude environmental factors are the primary driver of stock abundance, if this is being used to support use of an alternative management approach, such as dynamic B_0.**

We agree. See also our response to recommendation 11 below.

10) **When setting LRPs, the Policy should require a minimum absolute biomass beyond which targeted fishing must cease. This could be expressed in terms of absolute biomass, relative abundance, or fishing mortality.**

We agree. However, we maintain that Limit Reference Points (LRPs) set directly at the biomass proxy for the Point of Recruitment Impairment are dangerously low for most stocks, particularly for finfish fisheries, and given the context of rapid climate change and associated uncertainty in some regions. In our view a primary source of suboptimal economic and environmental performance in Commonwealth-managed fisheries is associated with a management approach that assumes a fishery is in a 'sustainable' condition right until the point recruitment is impaired. This has manifested in the difficulties experienced in building biomass away from B_{20} LRPs. Ensuring LRPs are set at a higher level of biomass, significantly above the point of recruitment impairment is an ecologically and economically wise approach.

11) **Novel approaches for taking the influence of environmental factors such as climate change into account in harvest strategies – such as the use of dynamic B_0 - should be tested using MSE or other appropriate methods to confirm compliance with the Policy objective.**

We agree. However, we are concerned that dynamic B_0 represents an opportunity to misattribute fishery management failures – such as the failure to collect robust discard estimates or other sources of unaccounted fishery mortality – to fishery externalities. It

also appears evident, as reported in dynamic B_0 stakeholder workshops, that if an environmental driver is misattributed in a similar way, or an environmentally driven productivity shift is transitory rather than permanent, then the dynamic B_0 approach will recommend catches that are too high. For this reason, compliance with the policy objective must be ensured by requiring harvest control rule settings that are no less precautionary than would be applied without the dynamic approach B_0 for at least the forward period of this harvest strategy review.

Rebuilding overfished stocks

12) **Recognising some stocks are currently failing to recover, further work is required to understand why - including whether underestimated discards, other non-commercial sources of mortality, or environmental factors are contributing factors.**

We agree.

13) **The impact of environmental factors should be considered when testing whether fisheries management responses (such as reduced TACs, gear changes, spatial closures) are likely to reverse declines and recover stocks above the LRP.**

We agree. We particularly concur with the statement that **'**Consideration should be given to the standard of evidence required to conclude factors other than fishing are the primary driver of stock decline or failure to recover'.

14) **Rebuilding strategies should continue to be developed for stocks managed under the Harvest Strategy Policy when they fall below the LRP, unless there is sufficient evidence to indicate fishing has not contributed to stock decline and continued fishing would not hinder recovery. Rebuilding strategies should continue to:**

Rebuilding strategies must remain in place for any stock that has fallen below the LRP. No targeted fishing can be permitted for any stock that falls below the LRP, regardless of the cause of depletion. By logical extension if fishing has not contributed to stock decline then a depleted species should be nominated for threatened species listing and managed entirely under that conservation ecology framework, and not a resource harvest management framework.

15) **Where there is sufficient evidence to indicate fishing would not hinder recovery, and there is no realistic prospect of returning the stock to a level that could be fished under the provisions of the Harvest Strategy Policy, the stock would be classified as 'bycatch' and managed under the Commonwealth Fisheries Bycatch Policy and relevant provisions of the EPBC Act.**

Per our comment on recommendation 14, if there is 'no realistic prospect of returning the stock to a level that could be fished under the provisions of the Harvest Strategy Policy' then the management of the species should not continue under a resource harvest framework that has no realistic prospect of success. Commonwealth Fisheries

Bycatch Policy also applies resource harvest frameworks (notably, the same B_{20} LRP and Point of Recruitment Impairment assumptions) rather than conservation ecology management approaches. For example, there is no consideration of genetic fitness, habitat or other population ecology considerations (such as the importance of 'founder' genetic traits carried by some individuals within a population that are essential to that population's ability to 'rebuild' into its historical range). Such species should be managed entirely under a conservation management framework.

16) **Further work across relevant government agencies is required to consider appropriate steps for protecting stocks that have declined below the LRP and are failing to recover primarily due to factors other than fishing. For stocks in this category, management strategies should:**

- **focus on protecting the remaining stock to the extent possible**
- **outline recovery trajectories expected in the absence of any fishing**
- **consider the impact of other sources or mortality that cannot be managed or constrained by the Australian government**
- **consider whether spatial and temporal management tools could be relied upon to protect non-recovering stocks**
- **outline performance measures and how these will be monitored and assessed**
- **identify how implementation of the management strategy will be resourced.**

We agree.

Balancing risk, cost and catch

17) **The Policy should recognise the spatial squeeze and consequent access restrictions on commercial fishers is impacting the collection of data to inform fisheries assessments and changing the risk posed by fisheries.**

We agree.

18) **The Policy should specifically include a requirement to incorporate a buffer when setting TACs to achieve risk equivalency based on the level of uncertainty in stock assessments, including uncertainty associated with discard mortality.**

We agree.

19) **The Policy should require that harvest strategies include a procedure for considering and responding to exceptional circumstances, including timeframes for specific actions.**

We agree.

20) **While beyond the scope of the Harvest Strategy Policy, this review notes there are growing calls for a multi-sector ocean-wide monitoring and data collection framework to reduce reliance on commercial catch data**

We agree.

Review of key policy settings of the Commonwealth Fisheries Bycatch Policy

Policy Purpose

21) **The policy should be retained, and objective should remain the same.**

We disagree. In addition to the existing objective, the Bycatch Policy objective must explicitly include robust monitoring of bycatch. The objective must also explicitly include ensuring strong rebuilding of TEP and overfished bycatch species. This is, or should be, the essential purpose of the Bycatch Policy.

22) **Ensure the policy remains outcomes focussed, that is, determining the outcomes sought to be achieved (consistent with the policy objectives) rather than prescribing the means to achieve them. This allows for flexibility in delivery while continuing to provide overarching guidance.**

As per our response to recommendation 21 above, if the objective is set to more explicitly ensure strong rebuilding of TEP and overfished bycatch species then a focus on outcomes is acceptable. We agree that the policy should focus on the outcome and not the means by which to achieve them.

23) **The policy should continue to make reference to EPBC Act-listed species within the policy, noting the risk-based approach considers all bycatch species.**

We agree.

24) **The Policy should align with the recommendations arising from the review of the Harvest Strategy Policy in relation to the categorisation of species managed under each policy. This could include information provided in Chapter 7 of the Bycatch Policy Guidelines which gives examples of how species may move between the two policies. Any changes should also be consistent with the EPBC Act.**

We agree.

25) **The definitions and terminology used in the policy should be reviewed to ensure consistency across policies, government and jurisdictions.**

- **The definitions of Endangered, Threatened and Protected Species (ETP Species), Bycatch, Key commercial, and Byproduct should be reviewed to ensure consistency with international and industry standards.**

We disagree. Definitions should not be allowed to differ from those used in Australian Government environmental policy and governance. The creation of Conservation Dependent – a fisheries-centric manipulation of Australian ETP species manage that has manifestly failed to deliver outcomes for almost all species it has been applied to – demonstrates that trying to treat the conservation issues that apply to most overfished

and ETP species as if they were best-managed under resource harvest approaches is anachronistic and has failed to deliver better outcomes for the environment or industry.

Data and Reporting

26) Explore options to make reporting more effective.

- **The review process found that reporting could be improved potentially leading to increased confidence in the management of bycatch, public trust and social licence.**
- **This could extend to focussing on the effectiveness of mitigation measures for high-risk species.**

We agree.

27) The ERA process should remain agile.

- **This would allow for all relevant available data to be utilised to ensure adequate information is used to inform ERAs. Other users of the marine estate should be encouraged to collect additional data which could then feed into the ERA process.**

We disagree. It is not clear what is meant by 'agile', though we note that most ERAs have been allowed to run considerably out-of-date, be based on data known to be unreliable even when several years of reliable data was available at time of publication (as for the current ETBF ERA), or not progress key areas beyond level 1 assessment. In our view the current ERA process has proven too expensive, and too poorly resourced, being entirely dependent on a very restricted specialist capacity; while not delivering commensurate management benefits. ERAs should be simplified, become more precautionary, and call on the increased environmental management expertise, resourcing and data available from well-established programs such as our Commonwealth Marine Bioregional Management Plans, National Representative System of Marine Protected Areas and State of the Environment reporting/monitoring.

Risk equivalency and assessment

28) Where the Bycatch Policy Guidelines provide more clarity on the assessment of risk, these sections should be elevated to the policy proper.

- **This should include assessment of mitigation measures, cumulative risk, a changing marine environment and data deficient stocks.**

  5 (as pertaining to the assessment of mitigation measures)
  10 (as pertaining to cumulative risk)
  11 (as pertaining to the changing marine environment)
  12 (as pertaining to data deficient stocks)

We agree.

First Nations interests

29) **The Harvest Strategy Policy should articulate principles to be considered and standards that must be met with respect to engaging First Nations groups in the development of harvest strategies.**

We agree. This recommendation and investment in this area is welcome and will likely be beneficial, as evidenced by the relatively strong performance of Torres Strait fisheries featuring Harvest Strategies developed with strong representation from First Nations communities.

30) **The Bycatch Policy should articulate principles to be considered and standards to be met with respect to considering the interests of First Nations groups. This should include when undertaking ERAs.**

We agree. This recommendation and investment in this area is welcome and will likely be beneficial, as evidenced by the relatively strong performance of Torres Strait fisheries featuring Harvest Strategies developed with strong representation from First Nations communities.

31) **The Harvest Strategy Policy should recognise a range of First Nations interests may exist in Commonwealth fisheries, and require these interests to be identified and considered in the development of fishery-specific harvest strategies.**

- **This may include more conservative TRPs for species of importance to Indigenous fishers where it can be demonstrated that a higher biomass target would better supports their interests.**
- **Where a formal resource sharing arrangement is in place that allocates a share of the fisheries resource for First Nations interests, this should be used as the basis for considering whether it is appropriate to implement a higher TRP for the relevant fishery.**

We agree. In addition, this should extend to the setting of LRPs.

32) **There is in principle support for development of a schedule of species of importance to First Nations people that must be considered when developing and implementing harvest strategies and implementing the Bycatch Policy.**

- **Further work is required to determine the practicalities of how the schedule would be developed and implemented, including how principles and priorities for the inclusion of species on the schedule would be determined.**
- **Consideration of any additional management and/or data collection arrangements will be required as a pre-requisite for adopting TRPs higher than the default TRP to enhance abundance of species on the schedule.**
- **Any formal allocation of the recommended biological catch of species identified as important to First Nations people should continue to be considered in accordance with the Commonwealth Fisheries Resource Sharing Framework 2020.**

We agree. While these recommendations may be incomplete, they represent an important step in a direction we believe will deliver benefits for First Nations communities as well as environmental outcomes. First Nations communities have a set of values, relationships and expertise relating to species that has been far more enduring than that developed under current Australian commercial fishery management approaches.

Consideration of the Policy Guidelines

33) Important elements of the Bycatch Policy Guidelines, including interpretation of the Bycatch Policy's key provisions and minimum implementation requirements, should be brought into the policy.

- **Remaining elements of the Guidelines should be discontinued, providing sufficient key guidance can be included in the policy without making the policy itself too long and complicated.**

No comment.

34) The Bycatch Policy should maintain flexibility in regard to the use of modelling tools and assessment methods, to ensure maintenance of best practice approaches, given data availability and resources.

- **Making amendments to ensure the policy is outcomes focussed (while maintaining consistency with the precautionary principle) would allow AFMA to better allocate resources to implement the requirements of the policy while remaining compliant.**

While the intent of this recommendation is not clear, and we support a move to an outcomes focussed approach, we are concerned it seeks to provide AFMA permission to further extend (and potentially in less robust form) fisheries management approaches to matters better suited to conservation management tools. We suggest a far more efficient approach is to require AFMA to more directly adapt and extend existing environmental management approaches, including those described earlier, to the management of bycatch issues. For example, bycatch species populations can/should be better managed by existing fishery independent environmental monitoring, such as population surveys, diver and underwater video surveys, that are conducted as a matter of course in marine park monitoring. Importantly, this data collection is not, and has no need to be, cost-recovered from industry.

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