

Revised Commonwealth Fisheries Bycatch Policy

Submission No.: 11

Submission by: NPF Industry

Submission:

Introduction

This submission is made on behalf of the NPF Industry Pty Ltd (NPF) in response to the public consultation process on the Commonwealth's Fisheries draft Bycatch Policy 2017.

The NPF Industry Pty Ltd represents Commonwealth Statutory Fishing Rights holders in the Northern Prawn Fishery (NPF). Our industry is comprised of a combination of individuals, small businesses and corporate fishing companies, many of whom are from intergenerational fishing families who have been involved in the NPF since the 1970's.

NPF provides the following overarching comments on the draft Bycatch Policy on behalf of our members. This Submission should also be read in conjunction with the submission from the Commonwealth Fisheries Association (CFA) which is supported by NPF.

NPF Response

- 1) NPF is gravely concerned about the definition of 'bycatch' as linked to the definition of an 'interaction' in the draft policy, which is completely at odds with globally-accepted definitions of 'bycatch interactions'.

NPF notes that 'bycatch' in the draft Bycatch Policy is defined as: "Species that physically interact with fishing vessels and /or fishing gear which are not usually kept by commercial fishers and do not make a contribution to the economic value of the fishery". An interaction is defined as "any physical contact with a species" - regardless of whether this interaction results in mortality.

This definition does not acknowledge that to be bycatch, the species actually has to be caught by or killed by the gear. This makes Australia's definition of bycatch inconsistent with that of the rest of the world. EG:

- It is inconsistent with the English Oxford living dictionary's definition - "The unwanted fish and other marine creatures caught during commercial fishing for a different species".
- It is inconsistent with the Meriam-Webster definition - "the portion of a commercial fishing catch that consists of marine animals caught unintentionally".
- It is inconsistent with the FAO definition (Saila, 1983)¹ - "That part of the gross catch which is captured incidentally to the species toward which there is directed effort. Some, all, or none of the by-catch may become the discard catch."
- It is inconsistent with the Marine Stewardship Council (MSC) definition - "Organisms that have been taken incidentally and are not retained (usually because they have no commercial value).

¹ 1 Saila, S. B. . Importance and assessment of discards in commercial fisheries, FAO Fisheries Circular , 1983 , vol. 765 pg. 62

- It is inconsistent with the European Union definition (COM(2007) 136 final 2 - “The accidental catching of non-target species or species that do not meet certain criteria for fisheries, including marine mammals, birds, turtles and other marine species.
- It is also inconsistent with NOAA’s recent definition in the USA’s National Bycatch Reduction Strategy (2016), which broadens the standard definition to include unobserved or “cryptic” mortality ie “...bycatch means discarded catch of marine species and unobserved mortality² due to a direct encounter with fishing vessels and gear”.

In addition, this definition completely undermines the significant investment over many years in innovation and technology to mitigate impacts of commercial fishing on bycatch. In the case of the NPF, in excess of \$15 million in research has been invested over the past 20 to reduce bycatch in the fishery, including through the development of turtle excluder and bycatch reduction devices (TEDs and BRDs). Importantly, the latest innovation - the Kon’s Covered Fisheyes (KCF) BRD – is an industry initiative which has been scientifically proven to reduce the catch of small fish by more than 30%. This device was developed by industry as part of the NPF industry’s voluntary agreement to further reduce bycatch in the NPF by 30% by 2018. However, the success of this BRD would not be recognised as ‘bycatch reduction’ according to the wording of the current draft policy.

NPFI is extremely concerned that the current definition of ‘bycatch interactions’ will create unnecessary regulatory burden and will have significant financial and resourcing implications for Commonwealth fishers. NPFI therefore recommends that the definition of ‘bycatch interactions’ be amended to align with globally-accepted definitions.

- 2) NPFI also notes that the Draft Policy requires “...data collection, reporting and monitoring processes and minimum requirements that support the assessment, monitoring and management of bycatch”. Such processes are costly to industry – to apply these requirements to anything that simply interacts with the gear while underwater would be extremely impractical and cost-prohibitive. This is contrary to the statement in the document that “The Guidelines will support a practicable and consistent application of the policy across Commonwealth fisheries”.
- 3) NPFI notes that there are both private and public benefits to managing and monitoring bycatch. NPFI suggests that there are greater public benefits than currently recognised, which should therefore attract greater government funding. Even if there was no commercial fishing activity, government would still be required to manage and monitor pressures, threats and impacts on species and populations from other sources (eg indigenous, recreational and environmental etc).
- 4) The draft Bycatch Policy is somewhat confusing and suffers from lack of clarity on whether the policy is aimed at addressing bycatch (ie species that are caught as part of fishing operations but not retained by fishers) or aimed at the overall impact of fishing activities on the environment. NPFI contends that this policy should be restricted to addressing bycatch (see below).
- 5) NPFI notes that the draft policy states that further policy and technical work will be required to explicitly address ecosystem impacts from commercial fishing, including on habitats and ecological communities. NPFI questions the need for further policy and technical advice to address these impacts - at significant cost to industry – given that these impacts are explicitly identified and recognised through AFMA’s world-leading Ecological Risk Assessment (ERA) and Ecological Risk Management (ERM) frameworks. NPFI recommends that impacts of commercial fishing on habitats and ecological communities

² Note: the phrase “unobserved mortality” is only mentioned in the ‘Definitions’ and is not used in the body of the document.

should continue to be assessed through ERAs and ERMs and should not be included in the new Bycatch Policy.

- 6) NPF notes that the 'Guide to Regulations' also states that government departments³ must produce a Regulatory Impact Statement (RIS) for various types of policy decisions, including where 'The proposed changes affect a large number of businesses, community organisations or individuals' and/or 'the administrative and compliance costs are high or onerous.'

NPFI notes that, if adopted as written, the proposed draft Bycatch Policy is likely to result in significant increased regulatory⁴, resourcing and financial imposts on commercial fishers given that Commonwealth fisheries management activities are cost recovered. NPFI therefore seeks advice on the process and timeframe for undertaking a RIS on the new draft BP. The RIS should be aimed at identifying the cost implications of the draft BP so that any increased management and monitoring costs to industry are well understood and adequately resourced prior to the draft policy being agreed and finalised.

- 7) NPFI draws attention to the following comments provided by the NPF Resource Assessment Group (NPRAG):
- the definition of bycatch is quite different to what's globally accepted. Not even MSC define bycatch in this way. The term interaction is too broad and includes animals that don't get brought onto a boat. It is hard to mitigate bycatch 'interactions' if you're not even aware of them. The term cryptic mortality covers some of these interactions but assumes the animal's death. It is possible to also have cryptic non-mortality. According to the definition, all the work NPF industry has done to reduce bycatch, including the use of TEDs and BRDS, amounts to nothing as the animals have still 'interacted' with the fishing gear. Perhaps the definition should also cover what's not bycatch, i.e. species that naturally escape or escape through the use of escapement technology;
 - cryptic interactions (including mortality and non-mortality) are practically impossible to measure and should be treated through the Commonwealth ERA/ERM frameworks. An improvement to the policy could be to include cryptic interactions together with habitats and ecological communities in paragraph 3 of the introduction "Further policy and technical work will be required to explicitly address ecosystem impacts...In the interim, these impacts will continue to be considered and reported through the Commonwealth's ERA and ERM frameworks". If cryptic interactions are included in the bycatch definition it has implications for the criteria in Section 3 including monitoring and reporting (section 3.7) which is not practical and would be very expensive. It is bad public policy to require something that's enormously expensive and very difficult to do. Furthermore, it is inconsistent with paragraph 4 of the introduction that states "The Guidelines will support a *practicable* and consistent application of the policy across Commonwealth fisheries". The inclusion of cryptic mortality and non-mortality in the definition of bycatch cannot be considered practicable;
 - Section 1.1 – What is bycatch: the definition of bycatch should change from "not usually retained by commercial fishers and do not make a contribution to the economic value of the fishery" to "not usually retained by commercial fishers and make a trivial contribution to the economic value of the fishery";
 - Section 3.1.2: Protected seabirds would fall under this category. The NPF has not had the issues with seabirds experienced by some of the southern trawl fisheries;
 - Section 4.2 – Bycatch strategies: if cryptic interactions are included in the point "data collection, reporting and monitoring processes...assessment, monitoring and

³ among others

⁴ The Guide states that 'Regulation may be defined as "Any rule endorsed by government where there is an expectation of compliance".'

management of bycatch” then it is practically impossible to meet this requirement. This approach is setting fisheries up for failure;

- Section 1 – Introduction: there is reference to recreational and Indigenous fishers having bycatch impacts yet there is no onus on these sectors to contribute to the management and/or cost. Under the draft policy, the responsibility lies entirely with the commercial sector. Furthermore, section 3.5 refers to cumulative impacts but the cumulative impacts will only be taken into account for commercial fishing and not from other sectors/impacts. Under this policy, other sectors are not required to contribute to the management, data collection or associated cost.