

Australian Recreational Fishing Foundation

The Voice of Australia's Recreational Fishing Community

2 November 2012

Commonwealth Fisheries Management Review
GPO Box 858
Canberra
ACT 2601

Dear Sir/Madam

Background

Thank you for the opportunity to provide a submission to the Commonwealth Fisheries Management Review announced by The Hon Joe Ludwig, Minister for Agriculture, Fisheries and Forestry, on 11 September 2012. The Australian Recreational Fishing Foundation (ARFF) is the peak national body for the recreational fishing community and through its members represents the nation's 5 million recreational fishers.

As per discussions with Sally Standen, ARFF was granted an extension to the deadline date until Monday 5 November 2012.

Recreational fishing is an extremely important activity to the fabric of Australia's social needs, which sees around 5 million anglers each year "dangle a line" in anticipation of catching a fish. Over recent years Australia's largest participation activity, recreational fishing, has come under more and more restrictions, reduced access through state and Commonwealth marine protected areas/reserves and what appears to be a heightened sense of focus by fisheries managers on developing commercial fishing activities.

Social and environmental considerations have taken on a much more prominent position in the public arena coupled with a rapidly changing community expectation and engagement in relation to resource development. These issues must be addressed in updated legislation that relates to fisheries management and administration.

Our Submission

At the outset we would like to comment on the extremely short period of time, i.e. 28 days, which has been allowed for public submissions on the two relevant Acts noted in the Terms of Reference that total in excess of 500 pages. Because of the extensive nature of recreational fishing interests in Australia there has not been sufficient time for interested stakeholders, including ourselves, to consult widely and receive input from their member structures thereby limiting input from the recreational fishing sector.

This will have a detrimental effect on the breadth and scope of submissions that will be submitted hence jeopardising the Ministers announced "Broad stakeholder consultation will play an important role in the review process". We trust broad stakeholder consultation will be undertaken through the Government's assessment of the review and as an integral and essential part of any actions that may arise.

In preparing this submission we have:

- Consulted with our supporter and member organisations and our extensive stakeholder network;
- Reviewed in detail the Fisheries Management Act 1991 and the Fisheries Administration Act 1991; and
- Met with the Chair of the review David Borthwick AO PSM.

Having been advised in our meeting with the Chair that his review report to the Minister would be making general recommendations at a “principles” level not draft legislation level our submission will be based at this level. It should also be noted that our term recreational fishing includes all forms of non-commercial fishing conducted for leisure, pleasure or sport and includes activities where vessels are chartered for these purposes (Charter fishing).

Recommendations

In summary, our recommendations are as follows:

- Recreational fishing needs to be formally recognised in the relevant policies and legislation relating to fisheries management;
- Recreational fishing representation needs to be involved at the development stage of policy and legislation;
- Ecologically Sustainable Development (ESD) Ecosystem based fisheries management must be incorporated and underpin fisheries policy and legislation;
- Funding must be forthcoming to address known scientific gaps ;
- Management measures must be proactive rather than reactive;
- Environmental considerations such as by-catch provisions and local area depletion must be effectively addressed by policy and legislation;
- Economic, social and environmental should be clearly enunciated in the objectives of the Acts;
- Broader social benefits of recreational fishing should be recognised by policy and legislation;
- Property rights and resource allocation for recreational fishers should be clearly defined and recognised in policy and legislation;
- Alignment of Commonwealth and state/territory laws and regulation; and
- Granting of foreign fishing licences should be in accord with the Commonwealth Fisheries Management and Administration Acts and the Environment Protection Biodiversity Conservation Act.

These recommendations are detailed below.

1. Recreational fishing needs to be formally recognised in policy/legislation

Under the Fisheries Management Act Section 4, recreational fishing needs to be defined and recognised within the Act. With over 5 million people regularly participating in recreational fishing across Australia and spending in the order of \$10 billion each year this significant contributor and stakeholder must be formally recognised.

The Fisheries Management/Administration Acts needs to move from a stated consultation focus to working collaboratively together with all fishing industry participants. As a significant stakeholder in the fishing industry recreational fishers want to move from being listened to, to actively participating in the decision making processes. If the social considerations that are to be written into the Acts, as announced by Minister Ludwig, are to be best practice it is imperative that recreational fishing involvement spans problem solving, decision making and conversely being part of the solution.

Under the Fisheries Administration Act Section 4 Interpretation – recreational fishing needs to be included in the definition of *peak industry body* as the Act confers reporting responsibilities to this peak body under Section 72.

The Fisheries Administration Act Section 30 Selection of nominees – “A Selection Committee must only nominate for appointment as directors of the Authority persons who have expertise in one or more of the following fields...” needs to have recreational fishing included as one of the fields to ensure our broad and complex interests are appropriately understood at the Board level of the fisheries management authority.

To encapsulate recreational fishing within the Acts it is imperative the concept of a Recreational Fishing Charter is included. The detail of such a Charter may exist outside the Fisheries Management/Administration Acts however it needs to be recognised within these two Acts to encode the value of recreational fishing within the legislation which manages commonwealth fisheries. A recent report by Martin Salter “*Keep Australia Fishing*” sets out further details on a Recreational Fishing Charter and the benefits that such an instrument can provide. A copy of the report is available at

<http://www.tarfish.org/documents/Keep%20Australia%20Fishing%20Report.pdf>

Martin Salter is a retired member of the British Parliament and a passionate recreational fisher. He was the first ever parliamentary spokesman for angling in the United Kingdom; prepared Labour’s Charter for Angling and helped launch the Angling Trust in England.

ARFF is in the process of developing a Charter for Recreational Fishing in Australia.

2. Recreational fishing needs to be involved at the policy development stage

The Fisheries Administration Act notes under Section 96 the establishment of a Fishing Industry Policy Council. The Fisheries Administration Act Part 1.3(b) The objects of this Act are: (b) to establish a Fishing Industry Policy Council with a view to ensuring the participation by persons engaged in, or having an interest in, the fishing industry in the process of formulating government policy in relation to the management of fisheries.

We are unaware of the existence of this body however the Objectives and Functions listed in the Acts align with having relevant stakeholders, such as recreational fishers, actively involved early on in the policy development process. Active participation and collaboration with recreational fisher representatives will support the inclusion of the social needs identified in the Terms of Reference of the review.

3. Ecologically Sustainable Development (ESD)/Ecosystem Based Fisheries Management (EBFM) must move from being talked about to underpinning and incorporated into legislation and the way fisheries are actually managed.

The Fisheries Research & Development Corporation (FRDC) has been championing, over a number of years, the benefits to be derived from implementation of ESD/EBFM. Whilst we note these terms are defined and mentioned in the Acts there appears to have been limited implementation across the various fisheries operating within commonwealth waters.

4. Funding must be forthcoming to address known scientific gaps

Having had direct involvement in Minister Ludwig’s Working Group looking at the Small Pelagic Fishery (SPF), in mid-2012, it became evident there can be significant research gaps in some fisheries. These scientific or knowledge gaps are known, however it would appear a lack of available research funding restricts the ability of scientists to bridge these gaps. A specific example will indicate the possible extent of this issue. In the Small Pelagic Fishery, egg samples were taken in the wild for Jack Mackerel in 2002/03 along the Eastern seaboard of Australia by scientists. The scientific analysis of these egg surveys was not undertaken until 2011, nearly 9 years later, when funds could be found through a philanthropic trust fund by which time the value of the information had declined due to its age. If Australia is to continue to follow best practice fisheries management principles it must address, at the least, known scientific knowledge gaps, particularly in developing fisheries where opportunities for commercial growth may exist.

The NSW Game Fish Tag program, run by NSW Fisheries commenced in 1973 and is recognised as one of the largest and most successful tagging programs in the World. Since 1973 till the end of June 2011 the total number of fish tagged stood at 390,000. The average number tagged each year is approximately 11,000. Significant supporters of the program include the Game Fishing Association of Australia (GFAA) Australian National Sportfishing Association (ANSA) and a number of smaller bodies at a local and regional level. Affiliated members tag the fish at their own cost, which provides the means for this valuable scientific program to operate. Tag and release fishing greatly enhances the value of an individual fish as game fishers spend more money to catch it multiple times whereas Commercial fishers kill the fish so it only has one value instead of possibly 10 values through the recreational fishing sector. This economic value of a fish should be explicitly recognised when reviewing and maximizing the net economic return to Australian. Funding for tag and release programs must be part of the Commonwealth's responsibility to ensure this important research component continues as there are still many scientific facts we need to learn about pelagic species, particularly shark species at present.

5. Management measures must be proactive rather than reactive, don't wait for a fishery to crash before acting to curb activities

Developed Harvest Strategies, such as the Small Pelagic Fishery Harvest Strategy, appear to be based on reactionary management measures, such as:

"If evidence of significant interactions with threatened, endangered or protected species exists, SPFRAG must recommend one or more of the following..."

"If there is evidence of localised depletion or change in age/size structure, SPFRAG must recommend one or more of the following..."

Note: For evidence to become known you need firstly, to be looking for the evidence and secondly to have sufficient funds available to record the evidence. Given financial constraints this can provide challenges for high risk, low value fisheries.

Our legislation and management systems should not wait for evidence, they should consider up front that these issues could occur and stipulate measures, which must be put in place to mitigate against the risks and then monitor the effectiveness of the mitigation measures. Fisheries management is not an exact science and when it goes wrong there is significant scientific opinion that has been published which indicates once, particularly, dependent fisheries have crashed it takes decades to recover not years.

6. Environmental Considerations:

By-catch Provisions

By-catch provisions need to be consistent across the various fisheries. There are examples where by-catch provisions in one fishery are different to provisions in another fishery for the same species, i.e. seals, dolphins and seabirds. With the potential of larger (Super Trawler) vessels in the commercial fishing fleet consideration must be given to putting in absolute numbers of by-catch species. By-catch provisions of a vessel that can catch up 18,000 tonnes in 3-4 months equates to 180 tonnes of by-catch which is on a scale of impact not seen, or necessarily understood, before in our commercial fisheries.

Local Area Depletion

Local area depletion is a recognised issue in fisheries management across most fisheries and there are a number of management measures that are available to address this risk. It became apparent during the Small Pelagic Fishery Working Group discussions with the Australian Fisheries Management Authority (AFMA) in July they were unable, due to a lack of legislative power according to AFMA, to implement what are known as "move on provisions" and "maximum area catch limits" at a scale that can address the risk of local area depletion. The combination of these

two controls provide for the following formula type - when x tonne of fish are caught in a defined area/region the vessel must stop fishing and move at least y nautical miles for a period of z before fishing can occur in the defined area/region again. The criteria for the variables must be based on scientific substantiation.

We suggest this legislative power needs to be included under Section 32 of the Fisheries Management Act or whatever Section deals with Fishing Permits. There also needs to be legislative scope for AFMA or the Department of Agriculture Fisheries and Forestry (DAFF) to be formal party to memorandums of understanding that may arise when a commercial fisher may agree voluntarily to certain conditions outside the scope of the licence regime for the purpose of providing additional protection to the marine environment and marine life. In the recent case of the MV Margiris the principals behind the venture to fish for small pelagics did indicate a willingness to enter into such a Memorandum of Understanding (MOU) which would have embraced move on provisions to guard against local area depletion risks.

A number of other conservation management protocols were also put forward by the MV Margiris principals for encapsulation in a MOU. The reality though was that there was no legal framework or scope for AFMA or DAFF to be a party to the MOU which thereby rendered the concept of an MOU virtually worthless as it was incapable of being monitored or enforced without at least one of the government fishing agencies being a party to the agreement.

7. Economic Considerations:

The Fisheries Management Act needs to be amended if it is to consider all aspects of environmental, economic and social considerations as detailed in the Terms of Reference. The Act as written notes as some of its Objectives under Section 3:

“3(1)(c) maximising the net economic returns to the Australian community from the management of Australian fisheries

3(2)(b) achieving the optimum utilisation of the living resources of the AFZ”

Implementation of the principles of Ecological Sustainable Development (ESD) requires specific objectives that address the social and environmental elements and balance these against the above economic objectives. The noted objectives would appear to need rewording to ensure they are not in conflict with social and environmental objectives that need to be inserted.

The Fisheries Administration Act also needs similar amendments to its Objectives as Section 6 notes “6(c) maximising economic efficiency in the exploitation of fisheries resources”

8. Social Considerations:

‘You don’t get your social license by going to a government ministry and making an application or simply paying a fee... It requires far more than money to truly become part of the communities in which you operate.’

- Pierre Lassonde, President of Newmont Mining Corporation.

In today’s society anyone who wants to implement change must consider the wants and needs of the community. These wants, needs and beliefs of communities have been coined as a Social Licence to Operate (SLO). The fishing industry harvests public common resources and has been grappling with this concept and acceptance for a long time. The process of gaining a social licence has established itself as a must do for industry and governments alike. More and more communities have become aware of, and understand, their potential degree of influence on issues that can affect their communities.

Communities have been prepared to show their passionate disagreement across many industries, forestry, mining and commercial fishing are recent examples. In consideration of modernising

Commonwealth fisheries resource management the issue of social licence must be considered, processes established and issues addressed.

Recreational fishing is recognised as having significant social, health and well-being benefits for Australian communities. A recent report by Professor A. McManus, *Identifying the health and well-being benefits of recreational fishing*, highlights at a macro level some of the range of extensive community social benefits recreational fishing provides. This report was funded through the Fisheries Research & Development Corporation's with a second, more detailed analysis now being considered by the Fisheries Research and Development Corporation (FRDC).

9. Property Rights & Resource Allocation

States and territories have commenced various processes to formally recognise the property rights and associated resource allocations to recreational fishers within their jurisdictions. The Department of Fisheries Western Australia has been particularly proactive with the development of separate Harvest Strategies for Commercial Fishers, Recreational Fishers and Indigenous Fishers in State waters. These rights and allocations are managed with monitoring across the three separate sectors and management measures implemented according to monitored catch levels for each sector. The document *A Sea Change for Aquatic Sustainability* published by the Department of Fisheries WA provides the framework for a new Act of Parliament to replace the Fish Resources Management Act in Western Australia.

Further detailed information on the Western Australian government system is available from Andrew Cribb, Department of Fisheries WA

Tasmania also has a degree of resource allocation within the Rock Lobster Fishery with 10%, or a minimum of 170 tonne, of the total allowable annual catch allocated to recreational fishers in that state each year.

In NSW there is a unique situation whereby moneys raised from recreational fishing licences have been applied to buy out commercial effort in bays, estuaries and lakes which have been legislated as recreational fishing havens whereby no commercial fishing is allowed. This manner of community buy out of commercial effort has not yet extended to commonwealth fisheries or waters but there is international precedent where recreational fishers have secured access rights to national waters and fisheries (via commercial buyout) and in these cases the recreational fishers enjoy the legal benefit of a tradable licence and statutory entitlements that otherwise would have existed in the hands of the commercial fisher.

In NSW the case has been put whereby a commercial buy out has been financed from licence funds, the recreational fishing community should be entitled to legal ownership and any benefits that would normally accrue to the acquired commercial fishing licence and or quota. In NSW there have been cases where reasonable compensation has been paid to commercial fishers for loss of access due to marine parks etc. but no such compensation has been paid to recreational fishers where their access in recreational fishing havens has been affected by commercial development – this is inequitable. With the likely hood that Southern Bluefin Tuna will very shortly be a shared fishery subject to an agreed annual total allowable catch to be jointly shared and managed by both the commercial and recreational sectors it is imperative that the issue of property rights and resource allocations for recreational fishers be addressed in the Commonwealth Fishery Acts.

Black and Blue Marlin are Recreational only species already covered in the Fisheries Management Act (FMA) and Longtail Tuna has been declared a Recreational only species; however this has not been not declared in the FMA 1991. Longtail Tuna must be declared in an updated FMA.

10. Alignment of state/territory laws

There are a number of examples where the Commonwealth/state/territory laws and regulations need to be aligned to ensure the objectives being sought are supported collectively for the benefit of the fisheries.

Examples include:

- a. In Tasmanian state waters there is a two month seasonal closure which has been implemented to protect the iconic Striped Trumpeter. Stock assessments show this species is under pressure. The state government with the strong support of the Tasmanian recreational and commercial fishing sectors has in recent times implemented a 50% reduction in the bag/possession limits, increased the size limit and implemented a seasonal closure to protect the expected peak spawning period as part of a range of management measures to improve the stock situation. Commonwealth fishery resource managers have indicated to the Tasmanian Government they do not believe a complimentary Commonwealth closure is warranted. There are AFMA and Tasmanian Police reports that Commonwealth fishers have targeted this species during the seasonal closure around the commonwealth waters surrounding Tasmania. If we are to effectively manage fish stocks species in our waters we need to ensure management measures are complimentary and not out of alignment.
- b. If a Scientific Committee in a state declares a fish species as Threatened, Endangered or Protected (TEP) in state waters that means recreational fishers cannot fish that species in state or commonwealth waters even though it has not been declared by the Commonwealth. Without a reciprocal Commonwealth declaration this creates the farcical situation where commercial fishers can still catch and take the declared species in commonwealth waters however recreational fishers are stopped from fishing this species in commonwealth waters. This recently happened with Southern Bluefin Tuna and the Hammerhead Shark species in NSW. This anomaly must be corrected. A declaration for TEP is put in place to protect the listed species and alignment of state and commonwealth legislation must be made to ensure the objectives of the listing are achieved in our territorial waters.

11. Foreign Fishing Licence

Granting of a foreign fishing licence should be in accord with the Commonwealth Fisheries Management and Administration Acts and the Environment Protection Biodiversity Conservation Act.

The Australian Recreational Fishing Foundation looks forward to constructively working with the Commonwealth Fisheries Management Review to ensure Australia's recreational fishers are effectively and appropriately recognised and represented in fisheries management policy and legislation.

Allan Hansard
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