



Conservation Council SA

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Commonwealth Fisheries Management
Review
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Dear Mr David Borthwick AO PSM

Re: Review of Commonwealth fisheries management legislation

As the peak conservation body for South Australia, the Conservation Council of South Australia (Conservation Council SA) welcomes the opportunity to comment on the Review of Commonwealth fisheries management legislation.

Conservation Council SA is an independent, non-profit and strictly non-party political organisation representing around 50 of South Australia's environment and conservation organisations and their supporters. Conservation Council SA has developed a comprehensive view of environment policy in "South Australia in a Changing Climate: A Blueprint for a Sustainable Future"¹ This document sets out, at a strategic level, policy positions in six key environmental areas, including marine and fisheries issues.

I would also be happy to meet with you or your representatives to discuss these matters in more detail.

Please contact me on _____ or email at _____ if you have any questions or follow-up in relation to this letter.

Yours sincerely

Tim Kelly
Chief Executive

¹ <http://www.conservationsa.org.au/blueprint.html>

Conservation Council of SA response to the Review of Commonwealth fisheries management legislation

Fisheries Management Act 1991

The objectives of this Act seem to be heavily biased toward the financial management of Australian fisheries, especially subsections 3(1)(a), (c) and (e). Whilst (a) and (e) are sensible measures, there seems to have been a focus on (c) 'maximising the net economic returns' over and above that of (b) and (d).

Subsection 3(1)(b) explicitly refers to the principles of ESD and 'the need to have regard to the impact of fishing activities on non-target species and the long term sustainability of the marine environment'. This entire objective seems to have been largely ignored by AFMA in its unwillingness to deal with bycatch and other environmental impact issues.

Conservation Council SA is not aware of any system in AFMA's management regimes to identify the cumulative impacts across multiple fisheries on threatened, endangered and protected species (TEPS). It appears that this only occurs through recovery plans, which means potentially waiting until a species at significant risk before interactions are addressed in a cumulative manner.

This is a serious gap that needs to be addressed proactively and can be done through a variety of means such as vessel monitoring systems and logbooks. (

AFMA's Australian Sea Lion working group (now the marine mammal working group) was a good structure to help deal with TEPS problems.

Conservation Council SA recommends that AFMA establish an appropriately resourced conservation working group (in addition to the current fishery MACs) that would act as a 'one stop shop' for conservation groups to raise concerns. Such a group would consist largely of conservation sector fishery experts and would be a forum for discussion of issues as raised. The group would be able to make serious recommendations that AFMA would have to consider implementing, and would have the added advantage of AFMA fishery managers having easy access to a broad swathe of conservation experts. This would improve information flow both ways.

Subsection 3(1)(d) refers to accountability. Whilst we cannot speak for the fishing industry, Conservation Council SA would definitely feel that AFMA does not demonstrate public accountability or transparency and **we recommend that transparency be incorporated into the objectives of the Act**, which can be done without compromising commercial-in-confidence information.

The current legislation does have some conservation objectives. For example, Objective 2(a) refers to 'ensuring, through proper *conservation* and management measures, that the living resources of the AFZ are not endangered by over-exploitation'. Unfortunately the conservation status of both orange roughy and school sharks is testament to this objective being ignored. It is interesting to note that AFMA actually has a mandate to ensure proper conservation and management of Australia's living resources.

We would strongly recommend that these objectives are updated to reflect a better balance between ecological, economic and social objectives.

Fisheries co-management

Conservation Council SA is familiar and experienced with fisheries co-management having been involved in a 3-year FRDC project with the Spencer Gulf prawn fishery, who invited our involvement in the project as the peak conservation body in South Australia. We now hold a seat on a sub-committee of that fishery as well as holding the conservation representative position on the Lakes and Coorong fishery.

The use of co-management models have improved our relationships with the fisheries directly, with PIRSA Fisheries as fishery managers and it has increased our capacity to be involved and respond to fisheries issues in an informed manner. Implementing and supporting the use of co-management models in Australian fisheries will have numerous benefits.

We applaud co-management as a progressive way forward to improved fisheries management, along with ecosystem-based fisheries management. It is essential that both be adopted for ecologically sustainable fishery management. However, AFMA and the Australian Government have to recognise that co-management, by definition, is not just government and industry working together, supported by scientists, which currently is the dominant expression of co-management. In fact, in a report by the FRDC, they define co-management as:

an arrangement in which responsibilities and obligations for sustainable fisheries management are negotiated, shared and delegated between government, fishers, and *other interest groups and stakeholders*.

Report of the FRDC's national working group on the fisheries co-management initiative (2008)

Other 'interest groups and stakeholders' could include local councils, indigenous interests, national parks/marine parks, recreational fishers as well as conservation interests. The only fishery we are aware of that contains almost all of these interests on a consultative committee is the Lakes and Coorong fishery.

To quote the report again, "Co-management is a fundamental shift in thinking about resource sustainability, long-term use and commercial viability" and " a lifeline for the future sustainability of Australia's fisheries and the businesses and communities that depend on them" as well as for the natural resources upon which fisheries so heavily rely. It is essential that AFMA, and the legislation underpinning it, incorporate co-management principles and models into their every day thinking because it will assist with the principles of ecologically sustainable development, such as intergenerational equity and the precautionary principle. It will facilitate both transparency and accountability to the Australian public who fund AFMA.

It is important to recognise that co-management occurs within a spectrum of management models and will be different for every fishery, depending on a number of factors including the geographic location of the fishery and the state of readiness of each fishery.

Co-management also contributes to the wider principles of natural resource management (NRM), which is in the interests of both the Department of Agriculture,

Fisheries and Forestry, and the Department of Sustainability, Environment, Water, Population and Communities. To date there is not much involvement of fisheries with NRM, yet on land farmers are intimately involved in NRM.

Credibility of AFMA

Dr Jonathon Neville has made a careful and detailed study of AFMA's management of two fisheries, orange roughy and northern prawn and Conservation Council SA is disturbed at his findings, which indicate fisheries management failures in four categories:

- dishonesty by omission – where information reflecting poorly on fishery management is not discussed
- dishonesty by exaggeration
- dishonesty with regard to context – where the meaning of particular material is distorted or misrepresented by a failure to explain the context
- dishonesty through incorrect statements

We note that in his submission to this review he cites examples of all of these with reference to the supertrawler issue, which is of grave concern.

In our past dealings with AFMA we have been thoroughly disappointed by their lack of willingness to acknowledge or deal with environmental problems, their willingness to act as advocates for the fishing industry and their willingness to inflate Australia's reputation for good fishery management. Whilst Australia may have comparatively good fishery management relative to third world countries, it certainly does not have the high standards of fishery management that it could and of which it would be capable. Australia's ranking by the University of British Columbia (Alder and Pauly, 2008) as only 32 out of 53 for fishery sustainability speaks volumes about the way AFMA, and other fishery agencies, speak about themselves, compared to our international ranking. There is considerable room for improvement.

AFMA independence and statutory status

While it is vitally important for AFMA to remain a statutory body, there is an urgent need to improve the structures within AFMA that address conservation issues.

Conservation Council SA strongly recommends that AFMA remains as a statutory body rather than having a different governance structure that might move it closer to government.

Ecologically Sustainable Development

The National Strategy for Ecologically Sustainable Development (1992) defines ecologically sustainable development (ESD) as:

using, conserving and enhancing the community's resources so that ecological processes, on which life depends, are maintained, and the total quality of life, now and in the future, can be increased.

Note that as well as 'using' resources the definition also requires 'conserving and enhancing' community resources.

The principles of ESD as defined in the *Fisheries Management Act 1991* are sound if applied comprehensively and equitably. However, we believe it is often the case that this is not done. Short-term economic thinking often dominates over long-term considerations, which then negates the intergenerational equity principle (defined in section 3A(c)).

Subsection 3A(d) states that 'the conservation of biological diversity and ecological integrity should be a *fundamental* consideration in decision-making' (our emphasis). This is clearly not the case within AFMA decision-making frameworks where again, economics, narrow and short-term thinking has dominated over all other considerations, leading to some commercial fish species now being listed under the EPBC Act. We believe that the Conservation Sector working group recommended earlier would assist AFMA in many areas such as these.

We recommend that AFMA actually implement this principle into its decision-making processes, given that the objectives of the *Fisheries Management Act 1991* explicitly state that the Minister and AFMA must act in a manner consistent with the principles of ESD.

Review and consultation process

Conservation Council SA is well aware that the Terms of Reference do not allow for comment about the review and consultation process, however, we are extremely concerned about the validity of the review, given its poor process. The legislation under consideration has not been reviewed for more than 20 years and it appears that proper process for such a significant review has not been followed. This gives us little confidence in the outcome of the review.

Whilst the review has called for public submissions, a review of this importance would normally hold short public meetings in each capital city but this has not occurred. One of the reasons for this is the very short timeframe allocated for this review, only three months to conduct the first review of significant legislation in more than two decades.

Conservation Council SA understands that Mr David Borthwick AO PSM met with pro-supertrawler stakeholders in Hobart, while other key stakeholders (opposing the supertrawler) were not even informed of his visit. We understand that only one of these other stakeholder groups heard of the visit on the day and managed to organise a rushed half-hour meeting with Mr Borthwick.

Conservation Council SA is aware that Mr Borthwick will be meeting with a few conservation NGOs after the submission due date but is concerned that this was organised rather late in the process, again as a response to criticism, rather than as an upfront consideration in the process.

The entire process seems to be a whitewash to satisfy public concern rather than undertaking a thorough and complete review.

References

Alder, J & Pauly, D (eds) (2008) *A comparative assessment of biodiversity, fisheries and aquaculture in 53 countries' exclusive economic zones*, Fisheries Centre, University of British Columbia, Vancouver Canada.

Ecologically Sustainable Development Steering Committee (1992) National Strategy for Ecologically Sustainable Development.

<http://www.environment.gov.au/about/esd/publications/strategy/index.html>

FRDC (2008) Co-management: Managing Australia's fisheries through partnership and delegation. Report of the FRDC national working group on the fisheries co-management initiative – project number 2006/068.