

The Recreational Fishing Alliance of NSW

“Promoting Sustainable Fishing”

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Commonwealth Fisheries Management Review
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26th October 2012

Commonwealth Fisheries Management Review

Dear Sir/Madam

The Recreational Fishing Alliance of NSW wishes to provide the following comments in response to the Commonwealth Fisheries Management Review being conducted by Mr David Borthwick AO PSM and have provided the following comments and suggestions as part of an organised national approach formed through a recreational fishing working group with Recfish Australia RA and the Australian Recreational Fishing Foundations ARFF, as well as several additional issues that should be considered.

The Alliance is a proactive organisation representing the interests of recreational fishers throughout NSW, in both salt and freshwater.

It is relatively clear that the Commonwealth, Fisheries Management Act 1991 FMA and the Fisheries Administration Act 1991 FAA along with subsequent amendments, their objectives and functions tend not to recognise recreational fishing or the charter boat industry in many ways as we have noted below;

3 Objectives FMA

- (1) The following objectives must be pursued by the Minister in the administration of this Act and by AFMA in the performance of its functions:
 - (a) implementing efficient and cost-effective fisheries management on behalf of the Commonwealth; and
 - (b) ensuring that the exploitation of fisheries resources and the carrying on of any related activities are conducted in a manner consistent with the principles of ecologically sustainable development (which include the exercise of the precautionary principle), in particular the need to have regard to the impact of fishing activities on non-target species and the long term sustainability of the marine environment; and
 - (c) maximising the net economic returns to the Australian community from the management of Australian fisheries; and
 - (d) ensuring accountability to the fishing industry and to the Australian community in AFMA's management of fisheries resources; and
 - (e) achieving government targets in relation to the recovery of the costs of AFMA.
- (2) In addition to the objectives mentioned in subsection (1), or in section 78 of this Act, the Minister, AFMA and Joint Authorities are to have regard to the objectives of:
 - (a) ensuring, through proper conservation and management measures, that the living resources of the AFZ are not endangered by over-exploitation; and

- (b) achieving the optimum utilisation of the living resources of the AFZ; and
- (c) ensuring that conservation and management measures in the AFZ and the high seas implement Australia's obligations under international agreements that deal with fish stocks; and
- (d) to the extent that Australia has obligations:
 - (i) under international law; or
 - (ii) under the Compliance Agreement or any other international agreement;
 in relation to fishing activities by Australian-flagged boats on the high seas that are additional to the obligations referred to in paragraph (c)—ensuring that Australia implements those first-mentioned obligations;

but must ensure, as far as practicable, that measures adopted in pursuit of those objectives must not be inconsistent with the preservation, conservation and protection of all species of whales.

3A Principles of ecologically sustainable development

The following principles are *principles of ecologically sustainable development*:

- (a) decision-making processes should effectively integrate both long-term and short-term economic, environmental, social and equity considerations;
- (b) if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation;
- (c) the principle of inter-generational equity—that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations;
- (d) the conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making;
- (e) improved valuation, pricing and incentive mechanisms should be promoted.

7 Functions of the FAA

- (1)The Authority has the following functions:(section 7 page 9 recreational fishing rates a mentions)
 - (ii) to establish and maintain a register of fishing rights;
 - (iii) functions relating to plans of management;
 - (iv)functions relating to recreational fishing;

Searching through the FMA and the FAA there is very little reference or support for our nations recreational fishing fraternity which we believe is currently around and estimated somewhere between 3.5-5 million fishers who participate in what is effectively Australia's largest recreational or sporting activity at some point each year, generating some extraordinary economic benefit in the Billions of dollars, at a local, regional, state and national levels.

Whilst recreational fishing is acknowledge in some cursory terms that the activity exists, and that recreational fishers must be involved in consultation, and the activity of recreational fishing must be considered, however very little else is stated, in terms of recreational fishing rights through an object or established charter, security around access to a publicly owned resource or specified recreational important species i.e. Marlin or Tuna or maybe other approved species, offsets for compensation in terms loss of area access or a resource share, and should a species be poorly managed and overfished.

Other issues like 'social licence' and Commonwealth Fisheries cost recovery, who should pay for what and how are the Governments core responsibilities decided and funded to manage the overall sustainable fishing effort or its protection must form part of any management regime.

What does exist with the Commonwealth Government through an archaic and out dated process is called the Offshore Constitutional Settlement OCS, that engages the States and Territories to manage a limited number of fishing (species) related activities by any method, i.e. Commercial, Recreational, Indigenous or Charter boat Fishing. Over the past several decades many attempts have been made to review, improve or change this however it appears form a recreational fishing perspective little has been achieved as one party always wants more than the other, thus no agreement is reached.

At best through common law, the public has a right to fish in the sea, the arms of the sea and in the tidal reaches of all rivers and estuaries.

Following is the central content of the submission prepared by the recreational fishing working group as noted above. The Alliance has made some minor corrections, changes and provided additional comment as needed and do support the various objectives that recreational fishers and the fishing industry strive to support.

Detailed below you will find our submission for consideration in the Commonwealth Fisheries Management Review announced by Minister Joe Ludwig on 11th September 2012. The Australian Recreational Fishing Foundation (ARFF) is the peak body representing the nation's 5 million recreational fishers.

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. It is our belief that this has not allowed 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".

Having consulted, as best recreational fishers could in the timeframe allotted by the review process, with our supporter and member organisations, 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 we provide the following for consideration. 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.

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.

The key points which, from our perspective, need to be seriously considered by the review include:

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 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.

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.

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.

Funding must be forthcoming to address known scientific gaps

Having had direct involvement in Minister Joe 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 RFA Chair (myself) is the current recreational fishing invited participant on South East Management Advisory Committee SEMAC. The (SPF) Fishery issues were a major concern to the recreational fishing sector during the 'super trawler' debate in early 2012, the overall consensus at both the Small Pelagic Fishery Resource Assessment Group SPFRAG and SEMAC deliberations were determined by the commercial fishing industry representatives involved and the attempts by the recreational or conservation stakeholders whilst being acknowledged by the committee however in essence were overruled or out voted, leaving such stakeholders no alternative but to seek other pathways to be heard.

Other concerns from within the MAC consultative framework acknowledged in the FAA, is the level of effort required to consult over the numerous fisheries and area that SEMAC covers - there is no financial support for such with RFA or myself picking up effort and costs, there is little difference to an invited participant and an actual member in terms of recognition and effort however no sitting fee is allowed or recompense for such representative activities, the ability to understand, deal with area specific issues between state and commonwealth responsibilities, and the vast number of recreational fishing issues that overlap between state and commonwealth jurisdictions when involving a commonly shared resource.

It is suggested that the FAA and subsequent internal policies and procedures be reviewed through committee member representations and corrected in the near future.

The NSW Game Fish Tagging program, run by NSW Fisheries and now fully funded by NSW Recreational Fishers 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. Numerous recreational fishers from around Australia and a small number of GFAA 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 formalised 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.

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.

Environmental Considerations:

Bycatch Provisions

Bycatch provisions need to be consistent across the various fisheries. There are examples where Bycatch 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 Bycatch species. Bycatch provisions of a vessel that can catch up 18,000 tonnes in 3-4 months equates to 180 tonnes of Bycatch 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 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 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 'FV Margiris' the principals behind the venture to fish for small pelagics did indicate a willingness to enter into such a 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 'FV 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 an enforceable 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.

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"

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 has 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 FRDC.

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 Western Australian government 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 3 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 Government of Western Australia Department of Fisheries 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 170tonne, 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 fees 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 fees, 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.

Understanding Recreational Fishing Effort and Participation

The last National Recreational and Indigenous Fishing Survey of Australia (NRIFS) commenced in May 2000 and was conducted for twelve months through a screening survey and diary survey of intending fishers. The survey was the first attempt to obtain detailed information on nation-wide catch and fishing effort of Australian recreational and indigenous fishers. It was funded under the Fisheries Action Program of the Natural Heritage Trust, by the Commonwealth and state Governments through the Fisheries Research and Development Corporation (FRDC), and State contributions.

To date there has been no further surveys at a national level, with many states and territories now seeking to establish a range of survey methods to understand their local recreational fishing effort and participation. The problem with this is that the data collected in general is unable to be aligned, is over differing dates, times and seasons, or can be used in any meaningful way to establish an overall national recreational view, in particular as to the way the data could be used to improve both commonwealth and state based fisheries or species management where fish resources are shared across state and commonwealth waters.

On the issue or understanding recreational fishing participation discussions have occurred with BRS and ABARES in ways of using current survey methods such as the National Census or area subject specific methods to improve our understanding of the importance of recreational fishing nationally.

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:

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.

This issue was again raised at the SEMAC meeting in May 2012, with support by the committee however no commonwealth fishing restrictions were applied to complement the state based fisheries closure which has been based on science and a need to conserve and improve fish stocks.

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.

Recreational Fishing Charter Boat operations

It must be noted that Recreational Fishing Charter Boat Operations have been aligned to the recreational fishing, however they tend to be caught in between as a service provider to the recreational fishing sector similar in terms to commercial fishing is a service provider to the public some many ways. Whilst the Acts acknowledge that the sector does exist, it tends to ignore the sector when environmental/conservation planning and fisheries management processes (state level) indicate the sector will be impacted in any way. The view that the Alliances sees in that the Charter Boat Industry must be engaged and possibly considered as a 'service provider' in a similar manner to the commercial fishing industry, they derive an income from accessing the share publicly owned fish resources of Australia and invest heavily with little to no recognition of their services or activities.

It is clear when you review such policies and the Governments position in terms of the Commonwealth Marine Protected Areas Displaced Activities Analysis and Policy as noted below then they are not entitled to any compensation as it is a statutory privilege (common law right) or '*This public right can be modified or extinguished under statute*'.

Recreational and charter fishing

The situation in relation to the interests of recreational and charter fishers is the same, or weaker, than commercial fishers. Where recreational and charter fishing is unregulated, the fishers have no statutory privilege or immunity that might be described as property. They may be exercising a public right to fish but nothing more. This public right can be modified or extinguished under statute without a question of acquisition arising.

If recreational and charter fishing is regulated, the legal situation is similar to that with commercial fishers. The fishers are likely to be seen to have only a privilege or immunity that can be cancelled or modified without the provision of just terms.

About the RFA of NSW

Formed in 2000, the RFA is the peak volunteer recreational fishing organisation in New South Wales. On behalf of our member organisations and their individual recreational angler members we provide representation, advocacy and a constructive consultation mechanism to the NSW Government and its departments, agencies and authorities. We liaise with many other industry representative groups on issues that can enhance, improve or impact on Australia's most participated and favourite pastime, recreational fishing.

Key members of the RFA are:

- Australian National Sportfishing Association NSW Branch, <http://www.ansansw.com.au/>
- NSW Council of Freshwater Anglers, <http://www.freshwateranglers.com.au/>
- NSW Fishing Clubs Association, <http://www.nswfca.com.au/>
- Underwater Skindivers and Fishermen's Association, <http://www.usfa.com.au/>
- Professional Fishing Instructors and Guides Association, <http://www.fishingguides.org.au/>
- South West Anglers Association Inc.,
- Community Action for Fish Rock group.

Should you or your review staff seek further information, or wish to raise any questions relating to the content of this submission then please contact the undersigned as noted.

Yours sincerely,

Malcolm Poole
Chairman
Recreational Fishing Alliance of NSW

Call for submissions to Commonwealth fisheries management review

28 September 2012

Mr David Borthwick AO PSM, who has been appointed by the Minister for Agriculture, Fisheries and Forestry to review the Commonwealth fisheries management system, has made a public call for written submissions.

Australia's fisheries are among the most sustainable and best managed in the world. In the years since the fisheries management system was first put in place, however, the needs and the expectations of the fishing industry and the broader Australian community have evolved.

With this in mind, and conscious of the limitations of time and geography, Mr Borthwick is encouraging interested stakeholders to share their views on matters within the review's terms of reference by written submission.

Input from the broad range of people with an interest in Australian fisheries is an essential part of the review and will be used to identify any improvements to the current system to ensure Australia remains a world leader in fisheries management into the future.

The submissions phase will run for four weeks, closing on 26 October 2012.

Full details on how to make a submission to the Commonwealth Fisheries Management Review can be [found on the department's website](#).

The review is expected to report and make recommendations to the minister before the end of the year.

Terms of Reference

The relevant legislation for fisheries management in Australia today is the Commonwealth *Fisheries Management Act 1991* and *Fisheries Administration Act 1991*. The precautionary principle is an objective of the Fisheries Management Act 1991.

However, the ability of the Minister for Fisheries to enact the precautionary principle is limited due to gaps in scientific knowledge, limits on the scope of the precautionary principle considerations, limits on how quotas are determined, limits on the considerations that apply in quota management, cross-agency considerations such as the relationship with the Department of Sustainability, Environment, Water, Population and Communities, and interactions with other legislation such as the *Environment Protection and Biodiversity Conservation Amendment Act 1999*.

It is therefore considered that the advice from the lead agency, the Australian Fisheries Management Authority to the Minister for Fisheries is limited in delivering on the expectations sought from the precautionary principle objective of the *Fisheries Management Act 1991*. As a consequence, the powers of the Minister to make decisions based on the precautionary principle are therefore equally limited in their scope, and the community is exposed to a less than sustainable model of fisheries management.

In light of new challenges within Australian fisheries management, the full objectives of the precautionary principle are now sought.

The review of the *Fisheries Management Act 1991* and *Fisheries Administration Act 1991* will:

- Recommend changes to the Acts that clearly establish the *Fisheries Management Act 1991* as the lead document in fisheries management, and that all aspects of environmental, economic, and social consideration, and the relevant planning processes required be incorporated into the Acts, in a co-ordinated way.
- Recommend any necessary changes to the Acts that affirm the powers of a Minister to take advice, and make decisions, with the full scope of the precautionary principle available within the *Fisheries Management Act 1991*, and that same definition of the precautionary principle apply in both the *Fisheries Management Act 1991* and the *Environment Protection and Biodiversity Conservation Amendment 1999*.
- Consider the need for modernising Commonwealth fisheries resource management legislation and approaches including penalty provisions, licence cancellations, the use of modern technology and co-management. Consideration of cost recovery arrangements will include consideration of the degree to which cost recovery might impact on the management of fisheries including investment in research and stock assessment.

This review starts immediately and will be completed within the next three months. Once completed, and once passage of the *Fisheries Management (Amendment) Act 2012* occurs, changes to the Environment Protection and Biodiversity Conservation Amendment that provide environmental discretionary powers to the Minister will be revoked, with any new *Environment Protection and Biodiversity Conservation Amendment 1999* to only be made to make clear the relationship between the *Fisheries Management Act 1991* and the *Environment Protection and Biodiversity Conservation Amendment Act 1999* itself.