

Mr. David Borthwick AO PSM

Review of Commonwealth Fisheries management

Dear Sir,

I thank you for the opportunity to provide input into the review of Commonwealth fisheries management on behalf of my membership. Fisheries provide a vital source of food, employment, recreation, trade and economic wellbeing for people in coastal communities within much of Australia, both for present and future generations, and should therefore be conducted in a responsible manner.

Within this context, the review will be specifically asked to:

- ***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 to be incorporated into the Acts, in a coordinated way.***

In recognizing the inevitability of change the Sustainable Shark Fishery Inc. is concerned that any changes remain in accordance with the FAO “Code of Conduct for Responsible Fisheries” to which Australia is a participating signatory. Whilst this Code is not a mandatory requirement, it does set out principles which should be incorporated into our Fisheries Management Act. The finalization of this Code was achieved in 1995 and postdates our own Fisheries Act (albeit it was under development), and although certain sections of our Act incorporate the broad principles, it would be our contention they may not accurately reflect the intention of the Code or provide sufficient direction for management purposes.

Relevant Sections of the FAO Code;

1. ***7.1.1 States and all those engaged in fisheries management should, through an appropriate policy, legal and institutional framework, adopt measures for the long-term conservation and sustainable use of fisheries resources. Conservation and management measures, whether at local, national, subregional or regional levels, should be based on the best scientific evidence available and be designed to ensure the long-term sustainability of fishery resources at levels which promote the objective of their optimum utilization and maintain their availability for present and future generations; short term considerations should not compromise these objectives.***

It is important to note here that the scientific knowledge referred to is in general limited to the target stock and not necessarily focused on the relationship of the species within

the food chain. Fishing activity such as local depletion and related species impacts is not afforded the same importance as the target species. The sustainability of fishery resources requires clarification to ensure that management is not undertaken in a single minded fashion for a sole species sustainability optimization.

2. ***7.4.5 In order to ensure sustainable management of fisheries and to enable social and economic objectives to be achieved, sufficient knowledge of social, economic and institutional factors should be developed through data gathering, analysis and research.***

The current Fishery management practices focus on maximizing sustainable economic return from the fishery. For AFMA the principal direction under the current Act appears to be interpreted as that of maximizing economic return. The Code however points out that management should also consider social and economic factors. All decisions will have some social impact when any changes in and by Management are considered. These impacts on the social and economic fabric of coastal communities reliant of the fishing industry require careful consideration to avoid major disruptions to the Australian community.

A transparent and independent review of the potential impacts is required prior to any changes in/by management. Industrial fishing and centralising of ownership elsewhere in the world has demonstrated that many of the major social impacts which result from shifting ownership of resources to fewer and fewer participants are not necessarily a desirable pursuit. Owner operators of fishing vessels have a far higher interest in managing the fishery than those simply skippering the vessel for a wage and who have no real investment to protect. Penalties imposed on owners under the current Act have little or no impact on employed skippers who can move elsewhere with apparently no impediment.

Management decisions should be required to clearly identify the way in which changes will impact on the fishery and measures required within that decision that will ensure the Australian fishing resources do not become a monopolised activity controlled by investors or overseas owners. As food/protein sources are depleted around the world it will be increasingly important for the Australian community to have ownership and access to these Australian resources in the long term.

3. ***7.4.2 Research in support of fishery conservation and management should be promoted, including research on the resources and on the effects of climatic, environmental and socio-economic factors. The results of such research should be disseminated to interested parties.***

As already pointed out, the socio economic consideration of Management practices, albeit nominated in the Code, do not appear to be a consideration under the Fisheries Act. As Fishing is a prime employer/economic factor in small regional coastal fishing ports, the socio- economic impact on these areas should be thoroughly investigated to mitigate financial hardship and **flow on effects**. Employment in these areas is critical to their survival, and extremely limited centralisation of ownership and industrial fishing practices will significantly reduce the potential economic viability of these regions.

Precautionary Principle

The FAO Code of Conduct for Responsible Fishing states in 7.5.2 “In implementing the precautionary approach, States should take into account, inter alia, uncertainties relating to the size and productivity of the stocks, reference points, stock condition in relation to such reference points, levels and distribution of fishing mortality and the impact of fishing activities, including discards, on non-target and associated or dependent species, as well as environmental and socio-economic conditions”

The concept of socio economic conditions is not made obvious in the decisions regarding the “precautionary principle”. Its implementation should include a comprehensive outline of all of these impacts; particularly given Australia is a signatory to this agreement.

4. ***From the FMA Act 1991 Section 4 Interpretation: “precautionary principle has the same meaning as in clause 3.5.1 of the Intergovernmental Agreement on the Environment, a copy of which is set out in the Schedule to the National Environment Protection Council Act 1994.” From the National Environment Protection Act 1994 Schedule with the Intergovernmental Agreement on the Environment:***

“SECTION 3—PRINCIPLES OF ENVIRONMENTAL POLICY

3.5.1 precautionary principle—

Where 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. In the application of the precautionary principle, public and private decisions should be guided by:

- (i) careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment; and***
- (ii) an assessment of the risk-weighted consequences of various options.”***

The Interpretation of this principle requires some clarity in order to ensure its implementation cannot be misused or misinterpreted subject to short term political consideration. It is clearly understood that lack of full scientific certainty cannot be used for postponement purposes. What is not clear is the definition of “serious or irreversible environmental damage” and how this is quantified or qualified except for the assumption it is based on scientific advice. What are the criteria relating to the advice? Has it been peer reviewed? Is it scientifically valid and supportable or merely a singular or subjective opinion? Much of marine science is not a pure science and relies on many assumptions that are subjective albeit based on best knowledge at the time, and not entirely on repeatable fact.

Some very clear direction will be required to avoid opportunistic usage of this phrase to generate impediments to sustainable activities through spurious claims. Already subjective local opinions have recently impacted overriding scientific position. Clearly the Act now requires some means of isolating the precautionary principle clause from nonscientific judgment by political lobbying groups and the social media, and at the same time provide for valid socio economic outcomes.

Objectives of the Fisheries Management Act

- 5 *The Objectives of the Australian Fisheries Management Authority state. "The Authority in the performance of its functions must pursue the objectives of:*
- (a) implementing efficient and cost effective fisheries management on behalf of the Commonwealth.*
- (c) maximising the net economic returns to the Australian community from the management of Australian fisheries.*

The interpretation of (c) appears solely to relate to maximising the economic returns without taking account of the socio economic impacts. If maximising economic returns to the Australian community is to be regarded literally then the interpretation fails to clarify who the "Australian community" is. Currently property rights provide the opportunity for overseas investors to obtain ownership of our resources. Should this eventuate, fish product harvested in Australia could be sold overseas at a loss and Australia would have no recourse. Profits would be generated offshore and the Australian community would not receive their rightful return for their country's resource.

The introduction of the property rights (ITQ's) has provided the ideal mechanism for our fish resources to be locked up by investors interested only in the financial returns. This may not be in the best interests of either the fishery or the Australian community. The resource belongs to the Australian community and thus the Act should **not** facilitate overseas investment or any opportunistic investment structures to the detriment of individual Australian ownership.

Traditional ownership of the resource by Australian companies and residents will be continually eroded and further overseas ownership will result in increased exports as the rest of the world's demand for seafood increases. The concept here that this will lead to increased profits is seriously erroneous as these companies sell the product at a loss and make the profits offshore. This hardly conforms to maximising economic returns to the Australian community; is not consistent with any socio economic consideration, and displays a lack of foresight and understanding of the industry.

Additionally it gives rise to the concept that no input controls are required and seems to be **selectively imposed**. Again, the input control on vessel size is yet another example of this selective use. Unless Management is required to use **both** input and output to effectively and efficiently manage fisheries in an environmentally friendly fashion, the potential for it to become a free-for-all exists.

Actions in regulating fishing activities and changes within a fishery need to be fully understood and documented to ensure these actions are managed within a socio economic context. **The importance of this cannot be underestimated** given the role the industry plays within the economic wellbeing of many small coastal communities reliant on the industry employment and flow on effects.

To provide social and economic benefits for the wider community the Act needs to provide some level of protection for existing fishers and the communities that rely upon their continuance. Consolidation into fewer and fewer vessels by employing the concept of “maximizing economic efficiencies” should NOT be regarded as implementing efficient and cost effective fisheries management on behalf of the Commonwealth.

Brian Bailey

**Chair S.S.F.Inc.
S.S.F.Inc.**



Shane Dugins

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