Marine Fisheries and Aquaculture

Productivity Commission Draft Report. August 2016. This is a draft report prepared for further public consultation and input. The Commission will finalise its report after these processes have taken place.

Commonwealth of Australia 2016



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An appropriate reference for this publication is:

Productivity Commission 2016, *Marine Fisheries and Aquaculture*, Draft Report, Canberra.

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| The Productivity Commission |
| The Productivity Commission is the Australian Government’s independent research and advisory body on a range of economic, social and environmental issues affecting the welfare of Australians. Its role, expressed most simply, is to help governments make better policies, in the long term interest of the Australian community.  The Commission’s independence is underpinned by an Act of Parliament. Its processes and outputs are open to public scrutiny and are driven by concern for the wellbeing of the community as a whole.  Further information on the Productivity Commission can be obtained from the Commission’s website (www.pc.gov.au). |
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# Opportunity for further comment

You are invited to examine this draft and comment on it by written submission to the Productivity Commission, preferably in electronic format, by **Friday 14** **October 2016,** by attending a public hearing or submitting a short comment on the inquiry website (http://www.pc.gov.au/inquiries/current/fisheries-aquaculture#draft). Further information on how to provide a submission is included on the inquiry website: <http://www.pc.gov.au/inquiries/current/fisheries-aquaculture/make-submission#lodge>.

The Commission will be holding public hearings in October 2016. Details regarding public hearings will be made available on the Commission’s website in due course.

The final report will be prepared after further submissions have been received and public hearings have been held, and will be forwarded to the Australian Government in December 2016.

### Commissioner

For the purposes of this inquiry and draft report, in accordance with section 40 of the *Productivity Commission Act 1998* the powers of the Productivity Commission have been exercised by:

|  |  |
| --- | --- |
| Melinda Cilento | Commissioner |

Disclosure of interests

The *Productivity Commission Act 1998* specifies that where Commissioners have or acquire interests, pecuniary or otherwise, that could conflict with the proper performance of their functions during an inquiry they must disclose the interests.

Ms Melinda Cilento has advised she is the director of a number of public and private companies, none of which participated in any way in this inquiry.

# Terms of reference

I, Scott Morrison, Treasurer, pursuant to Parts 2 and 3 of the Productivity Commission Act 1998, hereby request that the Productivity Commission undertake an inquiry into the regulatory burden imposed on the Australian marine fisheries and aquaculture sectors.

**Background**

Commonwealth, State and Territory governments are responsible for the management of Australian fisheries within their respective jurisdictions. Regulations are used to implement controls, such as limits on catch or effort levels, and regulate fishing methods in order to manage Australia's fisheries in a way that meets social and economic considerations and ecological sustainability objectives.

Except where agreement is reached to the contrary, state/territory laws apply to coastal waters (up to three nautical miles) and Commonwealth laws apply from those waters out to the limit of the Australian fishing zone (200 nautical miles). As most recreational and traditional indigenous fishing activity occurs in waters within state/territory jurisdiction, state/territory administrations generally manage these forms of fishing activity.

As a result, Australia's commercial fisheries are governed by a total of eight jurisdictions (the Commonwealth, states and the Northern Territory), with each jurisdiction developing specific regimes for fisheries management, fisheries research, reporting and environmental protection. In addition, there are 59 separate arrangements under the Offshore Constitutional Settlement that determine how cross-jurisdictional stocks are to be managed. There are also four joint fisheries authorities. This regulatory environment oversees an industry that has a gross value of production of $1.3 billion per annum. It is also an industry that has been the subject of a large number of recent inquiries and reviews at many levels.

While Australia's fisheries are regarded as sustainable, reliable and safe, there is scope to improve the management of fisheries through effective and coordinated regulatory and management arrangements. This includes the streamlining of regulations, rationalising jurisdictional and offshore constitutional settlement arrangements through improved cross jurisdiction and multi-jurisdictional regulatory regimes, information and service sharing, and harmonisation of environmental, management and compliance arrangements.

While aquaculture is within scope, it was the subject of a Productivity Commission research paper in 2004 which examined existing planning and environmental regulatory arrangements. The Commission should use the findings of this research as a basis to inform its current inquiry rather than commencing a new investigation into issues impacting the aquaculture sector.

**Scope of the inquiry**

The inquiry will identify opportunities to increase productivity and cut unnecessary and costly regulation, including where regulations are poorly coordinated between jurisdictions. The inquiry will therefore consider whether there are opportunities to improve fisheries regulations without compromising fishery policy and environmental objectives. Consideration would be given to regulatory simplification, streamlining and consistency of arrangements across multiple jurisdictions, alternative more efficient regulatory models, the practices of the various regulators and removing unnecessary restrictions on competition.

In doing so, the inquiry will consider the value of strengthened relationships and effective and coordinated management of our fish stocks with a view to reducing the regulatory burden incurred by business, and consumers.

In undertaking the inquiry, the Commission is to have particular regard to impediments to increasing productivity and market competitiveness of the Australian fishing and aquaculture industries, including:

1. The extent to which enhanced and improved use of cross jurisdiction and multi-jurisdictional regulatory regimes, information and service sharing can improve the economic efficiency and the ecologically sustainable use and management of fisheries resources.

2 .The extent to which harmonisation or integration of environmental, management and compliance arrangements could improve the effective and efficient operation of the fishing industry and delivery of fisheries policy and environmental outcomes.

3. The extent to which accreditation schemes or recognition of equivalency could reduce the regulatory burden and increase productivity.

4. The extent to which greater use of cost recovery arrangements is applicable and informs the cost of delivering fishery production, conservation and other community service obligations.

5. The extent to which fisheries management regimes align with and protect the interests of the wider community (in particular, the balance between commercial, recreational, indigenous fishing and conservation interests, and consumers' interests).

6. The extent to which fisheries management regimes support greater participation of Indigenous Australians, provide incentives to Indigenous communities to manage their fisheries, and incorporate their traditional management practices in the fishing industry.

7. The degree to which cross jurisdictional regulatory arrangements are transparent, accountable, proportionate, consistent, effective and targeted.

8. The degree to which cost effective and practical non-regulatory mechanisms could be expanded to achieve fisheries management outcomes.

The primary focus of this review will be on Commonwealth, state and territory regulation of wild capture marine fisheries. This will include the interaction of fisheries specific regulation within Commonwealth and State/Northern Territory jurisdictions. It will also need to have regard to the role of the Environment Protection and Biodiversity Conservation Act (1999) and other fisheries- related environmental legislation that are directly relevant to Australian marine fishing.

**Process**

The Commission is to undertake an appropriate consultation process including holding hearings, inviting public submissions and releasing a draft report to the public.

The Commission will consider the submissions and reports of all recent relevant inquiries and government responses. The Commission is to take into account the initiatives at the jurisdictional level relevant to the scope of the inquiry.

The final report should be provided within twelve months of the receipt of these Terms of Reference.

Scott Morrison  
Treasurer

[Received 23 December 2015]

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Acknowledgments

The Commission has used a range of information sources in preparing this draft report. The Commission is grateful for the contributions made by stakeholders through their submissions and comments, and their participation in consultations and public forums.

The Commission has also used research and data from a range of sources to inform recommendations, including the Australian Bureau of Statistics, Australian Bureau of Agricultural and Resource Economics and Sciences and the Fisheries Research Development Corporation.

The Commission thanks relevant agencies for the provision of fisheries and related data including Australian Fisheries Management Authority (AFMA), the Department of Agriculture and Fisheries (Queensland), the Department of Primary Industries (NSW), the Department of Primary Industries, Parks Water and Environment (Tasmania), the Department of Primary Industries and Regions (South Australia), the Department of Fisheries (Western Australia), the Department of Primary Industries and Fisheries (Northern Territory) and the Department of Economic Development, Jobs, Transport and Resources (Victoria).

# Abbreviations

|  |  |
| --- | --- |
| ABARES | Australian Bureau of Agricultural and Resource Economics and Sciences |
| ABS | Australian Bureau of Statistics |
| AFMA | Australian Fisheries Management Authority |
| AFMF | Australian Fisheries Managers Forum |
| AFZ | Australian Fishing Zone |
| CCSBT | Convention for the Conservation of Southern Bluefin Tuna |
| CPUE | Catch per unit effort |
| CRIS | Cost Recovery Implementation Statement |
| FAO | Food and Agriculture Organisation of the United Nations |
| FRDC | Fisheries Research and Development Corporation |
| GVP | Gross value of production |
| IC | Industry Commission |
| ITE | Individual transferable effort |
| ITQ | Individual transferable quota |
| IUU | Illegal, unreported and unregulated (fishing) |
| MAC | Management Advisory Committee |
| MoU | Memorandum of understanding |
| OCS | Offshore Constitutional Settlement |
| OECD | Organisation for Economic Cooperation and Development |
| PC | Productivity Commission |
| PIRSA | (Department of) Primary Industries and Regions (SA) |
| RBC | Recommended biological catch |
| SARDI | South Australian Research and Development Institute |
| SBT | Southern bluefin tuna |
| SESSF | Southern and Eastern Scalefish and Shark Fishery (Cwlth) |
| SETFIA | South East Trawl Fishing Industry Association |
| SPF | Small Pelagic Fishery (Cwlth) |
| TAC | Total Allowable Catch |
| WAFIC | Western Australian Fishing Industry Council |