

The Commonwealth fishery management system with specific reference to the Small Pelagic Fishery

AFMA's Statutory basis and Key Activity Areas

AFMA and the Minister must pursue a number of objectives when managing Commonwealth fisheries as set out in the *Fisheries Management Act 1991 (FMA)* and *Fisheries Administration Act (FAA) 1991*. These objectives include (in short form);

- - ecologically sustainable development (ESD)
- - maximising net economic returns
- - efficient & cost effective management
- - being accountable to the industry & Australian community
- - achieve government cost recovery targets
- - avoid over exploitation of resources
- - optimally utilize fishery resources
- - implement relevant international obligations; and
- - fisheries management is consistent with the preservation, conservation and protection of whales.

The **Ministerial Direction to AFMA of 2005** is a statutory instrument that AFMA must comply with to the extent it is consistent with the pursuit of its objectives. It seeks to focus AFMA's activities on a number of its objectives including:

- Avoid overexploitation of resources, by ceasing overfishing & recovering overfished stocks
- Economic efficiency, by completing the implementation of individual transferable quotas
- Ecologically sustainable development , by minimising interactions with protected species.

The Direction added that in pursuing these objectives AFMA must take a more science-based approach to decision making. The Commonwealth Harvest Strategy Policy arises from this and related statements in the Ministerial Direction and is considered further below.

The **AFMA Commission** makes key decisions in relation to domestic fisheries including setting TACs and making changes to fishery Harvest Strategies which, along with the **Chief Executive Officer (CEO)** (who is also a Commissioner), utilises a number of subsidiary statutory instruments including directions and temporary orders to manage more operational fisheries matters.

In 2015 the Parliament introduced a **regulation to limit the maximum boat length to 130m** to prevent longer vessels operating in Commonwealth fisheries.

The SPF, like all AFMA-managed fisheries, is subject to **cost recovery**. Each year the Minister (or his deputy) agrees to the cost recovered levy-base for AFMA-managed fisheries which are implemented by regulation. This follows consultation with industry and MACs on the draft budget for each fishery and the acquittal of last years budget v expenditure. AFMA is also increasingly using fee for service arrangements where costs can be ascribed to individual fishing concession holders.

There are just over 300 boats operating in Commonwealth fisheries and all must be Australian boats in accordance with the fisheries legislation. Under the provisions of the FMA/FAA AFMA can **deem a foreign boat an Australian boat** so that it can fish in the Australian Fishing Zone. Please note that

the Australian Maritime Safety Authority can **flag a boat Australian** and that an Australian flagged boat can be directly nominated to fish against Commonwealth fishing concessions (usually fishing quota). The Department of Agriculture and Water Resources is in the process of reviewing the policy associated with foreign fishing vessel access to the Australian fishing zone.

AFMA has a compliance risk framework that enables the Authority to prioritise various activities across fisheries in terms of the risks they pose to AFMA pursuing its legislative objectives. Following the completion of the most recent compliance risk assessment earlier in 2015, AFMA has prioritised two risks for target treatment; quota evasion and compliance with vessel monitoring requirements (VMS) and electronic monitoring.

Compliance maintenance programs are also in place for previously targeted risks which apply across fisheries such as 28 day quota reconciliation, fishing in closed waters and compliance with rules to minimise interactions with protected species. In addition to the risk-based approach, AFMA maintains a general presence deterrence program involving in port and at sea targeted inspections in order to discourage non-compliant behaviour by fishers.

Key Policies

Many of the policies being pursued in Commonwealth fisheries today have their origins in the Australian government's 1989 policy statement 'New Directions for Commonwealth Fisheries Management in the 1990's'. Of particular note are the use of 'output controls' – Total Allowable Catches (TACs) and Individual Transferable Quotas (ITQs), and the participation of stakeholders, with a focus on industry, in the advisory and decision making processes of AFMA. Output controls were, and still are, regarded as an effective and efficient means of controlling catch and enabling self-adjustment in commercial fisheries.

All of AFMA's major fisheries are under TAC/ITQ management with the exception of the Northern Prawn Fishery. In terms of advisory processes, **management advisory committees MACs** and **resource assessment groups RAGs**, are the centre-piece and are considered further below. Regarding decision making, the former AFMA Board (1992-2008) had industry membership along with other experts. In 2008 the industry membership was discontinued under the new AFMA Commission following the Uhrig Review of Commonwealth government statutory bodies.

During the period AFMA has been in existence the Commonwealth government has introduced two specific fisheries policies that apply to AFMA-managed fisheries; the **Commonwealth Fisheries Bycatch Policy (CFBP)** and the **Commonwealth Fisheries Harvest Strategy Policy (HSP)**.

The **CFBP** of 2000, has the overarching objective of maintaining bycatch species and populations through: reducing amounts of bycatch; improving protection for vulnerable species; and basing decisions on the extent of ecological impacts (of fishing). A key AFMA response to the bycatch policy has been the development of an **Ecological Risk Assessment – Ecological Risk Management (ERA-ERM)** framework for all Commonwealth fisheries. Effectively, an ERA has the same purpose as a limit reference point under the HSP. The ERM is the management response to reduce the risk level from the ERA to an acceptable level where necessary.

The government's **HSP 2007** applies to key commercial species and requires AFMA to implement limit and target reference points (or their proxies) for each key commercial species or stocks (there

are around 90 of these). The limit reference point is to be avoided as below this 'recruitment' of young fish to the fishery may be adversely affected by fishing. The target reference point is the preferred biomass level to pursue maximum economic yield for the fishery which is aimed at maintaining industry profits and fishery returns to the broader Australian community. If a stock is maintained at its maximum economic yield, the size of the stock is generally larger than it would be than if it was maintained at its maximum sustainable yield.

The Department of Agriculture and Water Resources is in the process of reviewing the HSP and CFBP.

AFMA has a policy for the operations of **MACs** consistent with the FAA, **Fisheries Management Paper No. 1**. Among other things the policy encourages (as appropriate) a broader membership than is explicitly stated in the FAA, including recreational fishing, conservation and indigenous members. This enables a wider range of views to be considered by AFMA and the Commission.

AFMA has also established, as a matter of policy, **RAGs** for each major fishery. RAG membership is decided by the CEO consistent with **Fisheries Administration Paper No. 12**. RAGs provide their advice to MACs and AFMA, and their minutes are publicly available on the AFMA website. RAGs are expertise based with a focus on science and economics relating to the assessment and utilisation of fish stocks and broader environmental effects of fishing.

A. Fishery specific arrangements – the Small Pelagic Fishery

Statutory basis

In 2009 the AFMA Commission determined, and the Minister accepted, the **Small Pelagic Fishery Management Plan** (the Plan). The Plan was a disallowable instrument and was not challenged in Parliament.

Provisions of the Plan include output controls to the fishery in the form of TACs and ITQs (granted as Statutory Fishing Rights (SFRs)) to the commercial fishery. The allocation of ITQ to eligible persons was also undertaken in accordance with the provisions of the Plan. The Plan came into full effect in 2012 following the conclusion of the SFR appeals process.

An ITQ entitles the holder to a proportion of the TAC that then gets translated into a quantity (kilograms) to catch. ITQs are granted on a species by species (or stock by stock) basis and TACs in the SPF are set annually. If the TAC increases, the proportion that one SFR entitles the holder to remains the same but the quantity (in kilograms) they can take increases. If the TAC decreases, so to does the quantity that the SFR entitles the holder to take.

Key Policies

SPF fishery stakeholders provide management advice through the **South East MAC** (SEMAC) which has responsibility for a number of significant fisheries. SEMAC currently comprises an independent chair with members from the commercial fishing industry (x4), conservation, recreational fishing, science and AFMA. Under provisions of the FAA a MAC can have no more than nine members (including the chair). The requirement for AFMA to consult SEMAC on SPF issues arises from the provisions of section 57 of the FAA and section 13(h) of the SPF Management Plan 2009.

Until recently, the **Small Pelagic Fishery RAG** (SPFRAG) provided scientific advice to both the MAC and AFMA. AFMA has recently announced how it will receive scientific and economic advice about the SPF through the use of a scientific advisory panel and stakeholder forums. This will be trialled for a period of two years.

Consistent with the Government's HSP, there is a **SPF specific harvest strategy** for the fishery which is approved by the AFMA Commission.

Consistent with the Government's CFBP, there is a **SPF-specific Bycatch and Discard Work Plan**.

AFMA also produces an annual **SPF Management Arrangements booklet** which is available at [Attachment 9 A](#).