



Impact of seismic testing on fisheries and the marine environment  
Submission 18  
**Commercial Fishermen's Co-operative Ltd**

ABN: 69 696 950 450

97 Hannell Street Wickham NSW 2293

*Fresh Local Seafood*

28 November 2019

Committee Secretary  
Senate Standing Committees on Environment and Communications  
PO Box 6100  
Parliament House  
Canberra ACT 2600

Dear Committee Secretary

The Commercial Fishermen's Co-operative Ltd (CFCL) welcomes the Australian Senate's inquiry into the impact of seismic testing on fisheries and the marine environment. CFCL supports the submissions made by WAFIC and PFA and thanks the Australian Senate for endorsing this opportunity to ensure the commercial fishing industry can be heard.

The CFCL currently represents 105 Fisher Shareholders/Members between Seal Rocks in the North and Tacoma, South. The CFCL is the single largest supplier of Wild Caught Seafood to the Sydney Fish Market (SFM). This represents about 10% of supply to SFM, making CFCL a significant contributor to the Seafood market locally and in NSW. We would like to bring your attention to our concerns regarding Advent Energy's proposed geophysical survey and gas exploration program offshore of the New South Wales coastline.

Our fishermen have described this particular area proposed for the survey as "The Farm" and expressed strong concern that the planned November seismic testing will disrupt many fishing operations, including Fish Trawl, Prawn Trawl, Trap and Line as well as recreational fishing. There is evidence from our fishers that, seismic tests conducted in the area in the past, have completely devastated the immediate and surrounding areas which have taken years to recover. This has caused irrecoverable losses borne by small scale fishers and the CFCL.

The commercial fishing industry recognises the need for exploration of resources to support our energy needs and understand offshore activities such as seismic surveys, deep-water drilling etcetera are conditions of offshore permits with proponents legally obligated to complete these activities – however - not at any cost - and it cannot be at a cost born by the commercial fishing sector.

The CFCL is extremely concerned regarding the impact of seismic surveys and the damage to our industry. Although there is currently only one seismic survey permitted activity in NSW (PEP11), it is also strangely permitted over our most profitable and viable fishing grounds.

Conducting a seismic survey in waters off Newcastle represents a considerable threat to fishing operations in the area. In addition, if the production of oil or gas was to occur in the future, this too would present a considerable threat to this region's fishing industry and the CFCL. These concerns are also supported by the NSW Department of Primary Industry's submission to Advent Energy regarding the project. The NSW DPI submission noted that a review of fishing



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productivity in the survey area found that between 23 and 27 fishing businesses were active and produced between \$12,821 and \$126,407 gross value per month.

We refer to the responses by WAFIC and PFA and support the below submission.

We note the Terms of Reference below, our submission will encompass aspects of these reference points.

*The impact of seismic testing on fisheries and the marine environment, with particular reference to:*

- a) *The body of science and research into the use of seismic testing;*
- b) *The regulation of seismic testing in both Commonwealth and state waters;*
- c) *The approach taken to seismic testing internationally; and*
- d) *Any other related matters.*

We stress to the Australian Senate that, by and large, commercial fishers are the **only** “*relevant potentially impacted stakeholder*” to offshore seismic activities and highlight the following for the Senate’s reference and review.

The CFCL supports and reaffirms the comprehensive response made by the Western Australian Fishing Industry council and PFA, as outlined below:

## ***Related Science***

*The consistent feedback from NOPSEMA and oil, gas and seismic entities is that there is not enough science or incomplete science to support commercial fishing industry concerns over impacts of seismic activity. Various publications note the generalisations applied from available science and the disparity between laboratory experiment results and for results gained from experiments set in the field.*

*A simple Google search will identify many, many publications over many decades focussing on cetaceans, seals, turtles etcetera with very few focussed on key indicator species for the commercial fishing sector. There is a significant research imbalance and a significant research gap on impacts to these species.*

*Fishers, from their multi-decade history of working key waters are frustrated that their on-the-water knowledge and observations of a decline or change in the catching pattern and their direct concerns regarding potential impacts to fish, fish spawning and the food chain appear to have had little regard from the resource sector because experience is not regarded as “science”.*

*We acknowledge there are seismic research publications showing no impacts, there is also published science clearly demonstrating there are impacts; and amidst these*

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*opposing results there are significant identifiable gaps in the science which must be addressed. Oil, gas and seismic proponents continue to hide behind the limited science, however, there is enough science which clearly identifies genuine risks - short, medium, long term and cumulative.*

*Notwithstanding a proponents reticence to accept a commercial fishers informal evidence, where there are observations causing genuine concern, where there are peer reviewed publications highlighting potential issues, the lack of a complete package of available science should not be a deterrent to a proponent ensuring there is adequate and appropriate risk protection for the commercial fishing sector. In short on these occasions the "precautionary principle" should be the mandatory approach by the regulator and oil, gas and seismic operators.*

### **Use of (limited) available science**

*Despite the availability of science supporting commercial fisher concerns, some oil, gas and seismic proponents continue to use science against science.*

*In our experience, we believe we have been exposed to proponents selective use of literature in the environment plan process, how they interpret this literature and the expectation that the under resourced commercial fishing sector and individual commercial fishers have to provide a counter scientific claim to protect our industry's sustainability. This is unreasonable and unfair and most importantly; we do not believe that this is our role. Oil, gas and seismic operators as the entities responsible for these potential environmental impacts are also responsible for identifying and mitigating these impacts via a broad scope review of the available science and in the instance of incomplete or a lack of science then they must exercise and adhere to the precautionary principle.*

*When a new seismic paper is released showing any potential negative impacts, we have observed the proactive and targeted early review of these papers by some oil, gas and seismic proponents with what appears to be an aim to discredit these papers or to downplay any recognised potential impacts. Multinational seismic operators and their representative peak body have the resources – financial, legal and human - to invest in peer reviewed work.*

*For example, when the McCauley paper was published (a laboratory based assessment of the potential impact on the food chain ie plankton, identifying that seismic in a laboratory case study did kill plankton) WAFIC's oil and gas executive officer received an evening call from our contact at APPEA who had advised that their APPEA instigated peer review of this paper commissioned via the CSIRO had demonstrated flaws in this work and that the plankton were not dead for as long as the paper had detailed etcetera; using a highly credible third party entity to potentially devalue the weight of the research claim. WAFIC, like our colleagues in other states, is a not-for-profit entity, we do not have the resources to commission a counterclaim. In this particular example, irrespective of the CSIRO review, the CSIRO acknowledged plankton still died and therefore there had to be adverse environmental impacts.*

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*Another recent example was the publication of the Bass Strait paper covering potential impacts on the Southern Rock Lobster *Jasus edwardsii*. The paper noted that whilst the seismic survey did not kill the lobster it did make them immobile and that in many cases the lobster were on their backs for a range of times before regaining momentum. WAFIC's suggestion to a proponent that this would result in a higher lobster mortality was met with some outrage with the response that "the science does not say that". Simply put, rock lobster are a prey, they only have spines on the top of their carapace to protect them from attack. If they are immobile with their soft underbelly completely exposed, we don't believe you need to be a scientist to say that the potential for these immobile lobsters to become prey in this prone situation must be higher with flow on impacts to populations.*

*Ironically, whilst in the Bass Strait lobster example the representative did not recognise the ability to project the published data forward to hypothesise potential increased mortality, we have other examples where a proponent has had no such issue. In Western Australia a third-party can access catch history from the state fisheries department; where there are less than three boats in a block the data cannot be released.*

*However, we have multiple examples where proponents have accessed data to use in their NOPSEMA environment plan and have chosen to extrapolate surrounding data over these no available data blocks "assuming" that a small number of vessels equates to a low catch. Simply not true. In some instances, we may be working with one extremely large catching and processing vessel which has the capacity to catch far more than say five or six average size vessels. Whilst it suits some operators to extrapolate catch data to support their seismic survey and other activities, we have other operators who will not extrapolate research data such as the underbelly lobster example, because it does not work in with their activities and will potentially impact how their environment plan is assessed. You cannot have the extrapolation of catch data but not recognise the validity (on a case-by-case basis) of the extrapolation of science, especially where the science is incomplete and limited.*

## **Impacts on the commercial fishing industry and ALARP**

*We believe there is enough science demonstrating there are impacts on commercial fishing activities; fish dispersing, fish spawning (larval stages, juveniles) and the marine environment (the food chain).*

*Environment plans continue to get approved based on ALARP levels. However, the "As Low As Reasonably Practical" target is ALARP assessed from the perspective of a seismic operator – it is not always mitigated to ALARP from the perspective of the commercial fishing industry.*

*In addition, oil, gas and seismic proponents acknowledge that their industry does not have an agreed universal definition of ALARP. In other words, different proponents have different views and definitions and targets to what they deem ALARP to actually represent. This is exacerbated by the gaps in science, therefore, if there is no or limited science disputing any of these assessments it is often represented by oil,*

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*gas and seismic entities that they have achieved their "ALARP" level rather than the precautionary principle (based on commercial fisher feedback) being observed.*

*We appreciate there may never be the perfect window of opportunity to conduct a seismic survey, however, considering a proponent's first priority is the availability of a seismic vessel, thereafter the potential conflict with cetaceans, turtles etcetera and a distant last the potential impact on commercial fishing and the commercial fishing resource it is no wonder that our industry is mired in frustration. Despite science and feedback from commercial fishers, seismic surveys continue to be approved giving them the right to operate during peak spawning periods and during peak fishing activities because these times were the best possible fit for the applicant.*

*We are reminded that this is "ALARP", however, it is ALARP from the seismic applicant's perspective because it is the best scheduling they could achieve. In short, sorry, we tried, however this a "best possible" seismic survey timing. This is not good enough. It is not ALARP from a commercial fishing perspective; the potential impacts and risks are not to our ALARP level but the environment plans still get approved.*

### **Access to specialist environmental and legal expertise**

*The environmental and legal specialist resources on hand and on site at the major oil, gas and seismic operators versus the resources commercial fishing not-for-profit peak bodies (already extremely busy with core business commercial fishing issues) and individual commercial fishers have access to is a completely lopsided affair.*

*This makes a mockery of the Transparency Review when it is far from a level playing field. We often quote the example of David versus Goliath; however, this does not accurately represent the total imbalance between the multi-national global corporates and the resources commercial fishing stakeholders have access to, not just in Australia but our associates in other global commercial fishing regions.*

*When you consider the fighting funds available to multi-national seismic entities and when you recognise the potential impacts to our commercial fishing industry we seek the support of the Australian Senate to recognise this unworkable imbalance and to provide our industry ongoing specialist support, to work with us and to work with oil, gas and seismic entities as part of the solution moving forward so an appropriate, fair and equitable outcome can be achieved. Outcomes should not be dictated by the access to significant funding available to the oil, gas and seismic sectors.*

### **Compensation – "Make Good" or "Adjustment" Process**

*Commercial fishers have been impacted by seismic survey activity in Australia. It has cost our stakeholders time and money. Time to adjust their commercial fishing activities to meet the operational plans of a seismic survey, potential impacts on catch, increased fuel costs and the significant impost of consultation. Where on the occasion there has been consideration for some form of adjustment, to access the specific detailed information that*

*an oil, gas and seismic proponent requires is also a significant and costly accounting exercise. Fishers note with frustration, "they make it too hard for everything*



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*including the potential compensation process," therefore often too hard to try to make it work.*

*The CSIRO completed a review of the Santos fisher compensation methodology proposed for the Timor Reef area under the environment plan. The aim of the brief was to review the proposed "make good" arrangements and compare their consistency with best practice applied elsewhere. The "make good" arrangements were to cover relocation expenses; loss of catch costs; engagement (consultation) costs; and a lump sum payment for future risks to the fishery. The CSIRO review noted the approach proposed by Santos for compensating fishers for their potential loss of income is generally consistent with international best practice. The methodology proposed was for commercial fisher and Seismic operator to provide detailed fishing data to verify operational disruption. This data and subsequent claim was then independently reviewed.*

*An adjustment process or make good arrangement consistently applied and assessed across all environment plans is long overdue. We stress that our aim is not compensation first – our expectation for all offshore activity and specifically for seismic surveys is that a proponent comprehensively and accurately consults and then delivers a fully mitigated environment plan which will not cause any impost / negative impact or loss for current, ongoing and future commercial fishing activity. However, if this cannot be achieved, it is completely unacceptable for these actual and potential losses not to be recognised, assessed and financially compensated.*

*A key issue with some proponents is that they fail to recognise any impact on commercial fishing activities, the cost to consult and the potential current and future impact on the commercial fishing resource.*

## **Social Licence**

*As part of our commercial fishing activities, the recognition of social licence issues for fishers around Australia have risen in prominence and are being addressed as part of our future fisheries engagement and management processes. We understand the importance of social licence and the need to recognise this important social component of our industry.*

*What we find very frustrating with the oil, gas and seismic process is that their social licence, especially in relation to seismic surveys, focusses heavily on and heavily prioritises potential impacts to cetaceans, turtles, seals etcetera with the commercial fishing social licence being placed a distant last.*

*Until the oil, gas and seismic sectors also recognises the social licence impact on the commercial fishing sector we believe we will continue to be the poor relation in the seismic assessment space.*



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## *Industry engagement*

In addition to these issues is the deceptive nature in which Advent Energy – the applicant for PEP11 - has undertaken its engagement of our industry and the process thereafter. We are deeply concerned by Advent Energy's lack of integrity demonstrated previously. They deliberately ignored the NSW DPI submission and stated that "no commercial fishing would be interrupted through the survey". In addition, despite legal requirements that stipulated the need for Advent Energy to consult with stakeholders, they failed to appropriately engage with our industry – instead sending a letter to fishers advising that the survey was definitely going ahead (before any approval had been given by NOPSEMA) and one industry meeting in which they presented their concepts and did not engage otherwise to address the fishers articulated concerns (one-way engagement only).

The consultation burden placed on the commercial fishing industry continues to be untenable. Consultation continues to be onerous, transactional with a one-way delivery of often highly technical information and advice, rather than a process of genuine and productive two-way engagement bespoke to the commercial fishing sector.

The oil, gas and seismic industry has to consult as a legislated requirement for their environment plan. However, this industry often fails to recognise that this consultation comes at a significant cost to the commercial fishing sector – in time, effort and energy; our industry is struggling to recognise the value of this investment when identified potential impacts are either mitigated to an oil, gas and seismic version of ALARP or dismissed via the use of selective reference to science of convenience.

The consultation has no idea of the value of a fisher's time and availability. Some operators seek a reply within a few weeks expecting a fisher who has been at sea for a fortnight or longer to immediately go to their laptop (or via their mobile) on their return to port to address the multiple and myriad requests from their sector. This is a significant, unfair impost and defies logic; it has created a chasm between our stakeholders and the oil, gas and seismic environment plan consultation process.

We feel in many instances that oil, gas and seismic proponents are oblivious to the burden of consultation; the time it takes for an entity representing commercial fishers such as the CFCL, or an extremely busy commercial fisher to professionally assess their environment plan information and to respond.

The CFCL appreciates the driving need for petroleum but cannot support actions that severely reduce our industry's harvests and viability. The commercial fishing industry needs the support of the Australian Senate to ensure this significant global seismic survey issue is on the parliamentary and broader community formal agenda, we look forward to being heard, we look forward to being an integral part of the solution moving forward.

Thank You for the opportunity to add to your enquiry.

Please call to discuss if required.

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Kind Regards,

*Robert Gauta*

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