

Superyacht (SYBA) Australia – Senate Inquiry Submission

**Environmental Protection and Biodiversity
Conservation Amendment (Bioregional Plans)
Bill 2011**



purpose

This submission is in response to the Senate Inquiry into the Environmental Protection and Biodiversity Conservation Amendment (Bioregional Plans) Bill 2011.

It summarises the position of the peak Superyacht marine industry organisation in respect to the national Marine Bioregional Planning process to the industry and identifies a range of key issues that underpin good planning, governance and management of this critical process.

objectives

The objectives of this submission are to:

- Formally respond to the Senate inquiry and outline the Superyacht marine industry views on the bioregional planning process and its implications for the industry;
- Identify key issues for both the short term and long term for the sustainable growth and operation of the industry as a result of the marine bioregional planning process;
- Identify important next steps in this process from the industry perspective;
- Seek to highlight important issues for the industry and how they align to whole-of-Government priorities within the Commonwealth waters.



the Superyacht marine industry in Australia

The Superyacht marine industry is a significant and growing industry in Australia.

Australia has a biologically rich and complex seascape. There are around 25,760 kilometers of coastline and around 15 million square kilometers of ocean. As an island continent Australia has one of the largest exclusive economic zones of any country. Imbedded in the Australian culture is a deep affinity with our oceans.

The Australian marine environments are extremely diverse. They encompass the tropical seas of the north to the Antarctic ice-shelves of the south. There is a vast array of diversity and biological richness in these waters. In waters adjacent to Queensland it includes global icons such as the Great Barrier Reef and the Coral Sea.

The Superyacht marine industry is a leader in environmental stewardship. The reason for this is simple – the future health and sustainability of the Superyacht marine industry is dependent upon on clean, healthy and sustainable marine environments.

The industry has a wealth of knowledge and expertise on marine environments and management regimes across the range of diversity of environments in these waters.

The scope of the industry includes:

- Builders of large yachts, power and sail, and components
- Refit and refurbishment facilities
- Dealers, Brokers and Syndicators and Charter Operators
- Marina operators and developers
- Infrastructure providers
- Marine tourism operators
- Educators, trainers and licensing providers
- Financiers and insurers
- Event managers and coordinators

The Superyacht marine business in Australia comprises approximately 450 businesses that directly employ 5000 employees and indirectly employ up to 18,000 employees and contractors.

background

Marine planning seeks to protect the marine, coastal and estuarine environments by ensuring that development and use is compatible with the environment it occurs within. It is a form of planning that focuses primarily on the ecosystem and its surrounding habitat. Most people in the community are familiar with the idea of planning and associate this term with land and land organization. However it is now made possible through the use of various policy agreements to plan just as effectively for the marine environment. These environments are less familiar to the mainstream community due to their proximity to land. The benefits of marine planning are similar to those for planning on the land particularly when it comes to fostering growth and development of commercial and industry activity.

The Australian Government's regional marine bioregional planning program commenced under Australia's Oceans Policy in 2001 with a focus on the South-east Marine Region. The South-east Regional Marine Plan was completed and released in 2004 with broad support from the recreational and light commercial marine industry.

In 2005, the Government brought regional marine planning under the provisions of the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act), with a clear focus on building a knowledge base of the conservation values of a marine region, in order to provide the greatest certainty possible for the sustainable use of our marine resources.

Under the that approach, the Minister for the Environment and Heritage was tasked with making a series of Marine Bioregional Plans for large sectors of the Commonwealth's marine area, detailing the Australian Government's conservation objectives and environmental management measures such as Marine Protected Areas, listed marine species protection, and sustainable fisheries.

Biodiversity conservation, in the context of ecologically sustainable development, is the central objective of the EPBC Act and this approach underlined the Government's strong commitment to ensuring the long-term sustainability of the Australian marine environment, as envisaged in Australia's Oceans Policy (1998).

The Government at the time clearly stated that the approach would give marine industries clearer guidance, and help to streamline the operation of approval processes under the EPBC Act, improving the information available to Government on which to base its decisions.

While there were substantial achievements through regional marine planning with the release of the world's first regional marine plan in the South-east Marine Region, the Rudd Government decided that a deviation away from that process with a much increased emphasis on marine conservation. This change in emphasis also resulted in a different approach to industry engagement which has resulted in a significant loss in confidence by industry to the process and its commitment to the outcomes of the current process.

The Superyacht marine industry remains committed to a planning process that – put simply, objectively analyses and allocates parts of three dimensional marine spaces (often referred to as “ecosystems”) to specific uses to achieve ecological, economic and social objectives for the benefit of the community.

users of the marine environment

Pressure on our seas is growing. Therefore it is essential that Government be in a position to make informed decisions about activity and increasing demands and pressures in these waterways. The recreational and light commercial marine industry needs this process to be undertaken in a transparent and objective manner as the sustainable future of the industry relies upon it. The critical importance of this process in that regard cannot be overstated.

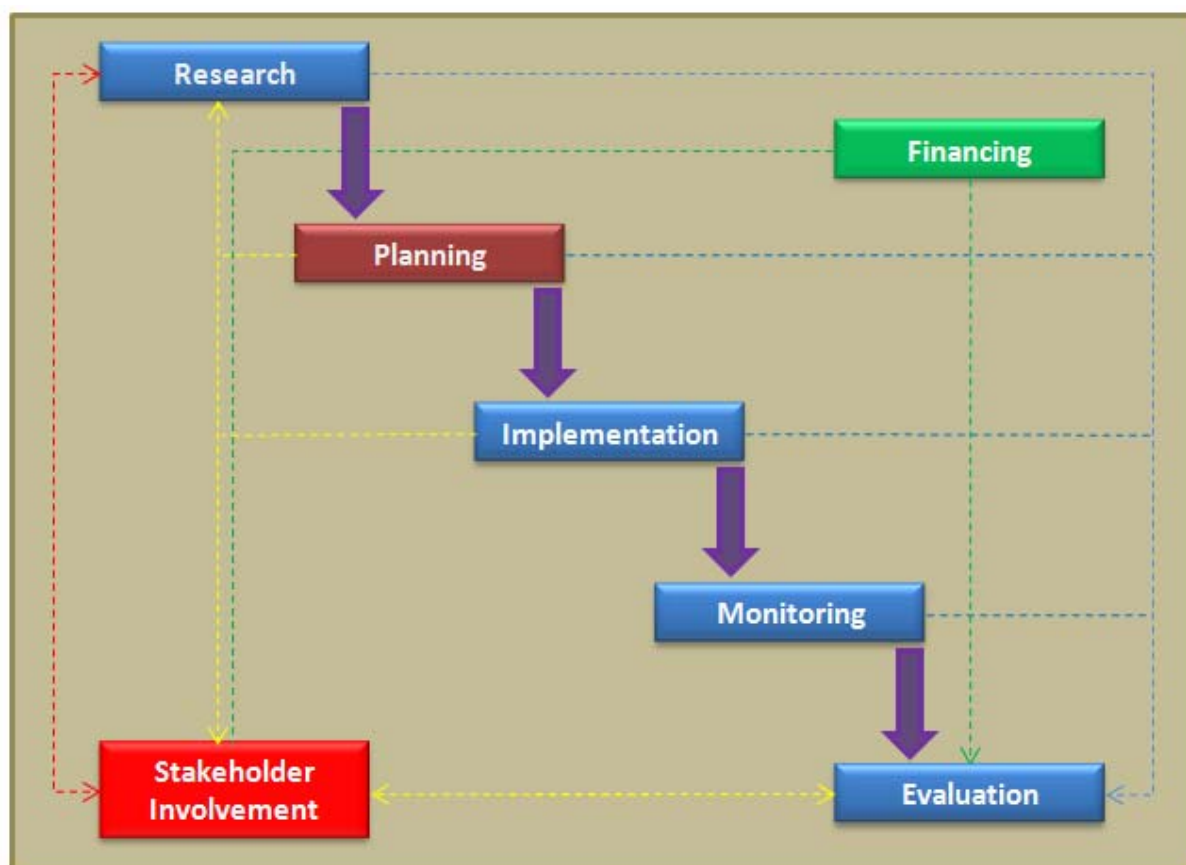
The following is a summary of the scope of activities currently undertaken on and within these waters:

- Vessel traffic routes;
- Vessel traffic separation zones and precautionary zones;
- Areas to be avoided by vessels;
- Safety zones around vessels and terminals;
- Anchoring and no anchoring areas;
- Security zones and military activity zones;
- Oil and gas lease and concession areas;
- Dredging sites and areas (including spoil dumping areas);
- Oil and gas pipeline rights of way;
- Submarine communications cable rights of way;
- Energy transmission line rights of way;
- Sand and gravel extraction areas;
- Commercial fisheries;
- No trawl areas;
- Critical habitat designations;
- Offshore aquaculture areas;
- Marine protected areas;
- Protected archeological areas such as ship wrecks and war memorials;
- Cultural (indigenous activity) or areas of religious significance;
- Tourism activity areas;
- Recreational activity areas;
- Scientific research areas.

In recent times there has been much debate about fishing and fishing related issues. Given the scope of the activities that are undertaken in these waters and the critical importance that the planning process transparently and objectively assesses the multiple use demands and risks associated with each of these activities. It is therefore critical that the integrity of the process be ensured when necessary by appropriate Parliamentary scrutiny.

elements of the planning process

For the goals and objectives of marine bioregional planning to be successfully implemented, they must include a range of related elements within a holistic process. The following diagram details each of these and identifies their relationships:



The planning processes are critical and integral to the overall process. To date the process has been found wanting in respect to the accurateness and suitability of the research being used for stakeholder engagement. When errors were identified by industry stakeholders, Department representatives advised that due to timeframes imposed upon the process by the Minister that the analysis and planning process would continue regardless. Naturally these types of decisions significantly undermine stakeholder confidence in the process and outcomes.

Similarly, the unilateral decision by the then Minister to declare the Coral Sea Conservation Zone apart from the planning processes for the Eastern Bioregion further eroded stakeholder confidence of the integrity of the process. This has been further exacerbated by a literature review of the science used to justify the decision by Dr Ben Diggles. This review suggested that much of the science relied upon for the justification of the decision had little or no relevance of the decision made or the need for a departure from the established process.

Given that these fundamental process flaws have resulted in the planning process to date it further highlights the critical importance of due process which is transparent and subject to review – in this case by the Parliament via a disallowance declaration. The present situation where the power rests with the Minister alone in respect to the declaration of outcomes from the planning processes given the recent factual flaws to date highlights the importance of appropriate accountability mechanisms.

the benefits of an open, transparent and accountable process for the community include:

- Identification of compatible uses for development;
- Reduces conflicts among uses and users;
- Provides greater certainty to commercial activity when it plans new investments;
- Promotes efficient use of resources and space and reduces or eliminates impact on the environment;
- Establishes areas of importance or sensitivity and reduces risk of conflict with development;
- Enables biodiversity commitments to be at the heart of marine planning and management;
- Ensures space for biodiversity and nature conservation; and
- Provides context for an appropriate network of marine protected areas where a need and threats have been identified.

Therefore good practice in these processes, as experienced though the South-eastern Queensland Bioregional planning process, resulted in outcomes with broad stakeholder support including:

1. Place based and area based activity areas;
2. Appropriate eco-system protection areas;
3. Achievement of multi objectives including:
 - a. Ecological;
 - b. Socio-economic; and
 - c. Governance objectives.
4. Integrated outcomes across economic sectors and multiple government agencies;
5. A longer term perspective on the protection and management of these waters;
6. Commencement of appropriate adaptive management mechanisms including monitoring and evaluation arrangements; and
7. Strong stakeholder support for the process and outcomes.

The Superyacht marine industry advocates the application of the following principles to the marine planning processes:

address identifiable threats to the marine environment

Marine protection measures, where deemed necessary, will address objective threats to marine environments. Measures based on philosophy such as minimum percentages are not within the scope of this Principle.

measures must be viable and effective

The marine environment is subject to ongoing stresses both natural and human induced. Protection measures that are viable and effective will facilitate increased levels of sustainability of marine environments and more likely to withstand and recover from any such impacts. Viability will depend on matters including:

- The nature of protection;
- The nature of actual and potential threats to marine environments for example extreme weather events, oil spills, etc.;
- The ability of any proposed protection measure to mitigate impacts.

Protection measures may be developed and administered at the industry level and may not necessarily only take the form of statutory regulation.

national priorities for marine protection measures are subject to regular assessment and review

National priorities for marine planning will be set in a national plan which can be subject to review by the Parliament and subject to an annual review process to confirm priorities, effectiveness and emerging threats. National priorities will guide and inform regional planning processes. This process will be transparent and engage fully with industry, indigenous and other stakeholders at the regional level.

adverse impacts on existing users of the marine environment should be minimised

Marine protection measures are more likely to be established in a timely and efficient manner where appropriate recognition is given to the rights and responsibilities of users of the marine environment. Marine protection measures should aim where ever possible to minimize adverse impacts on users. This will be undertaken within the contexts of appropriate management of foreseeable threats.

Where adverse impacts will result, appropriate displaced activity compensation will apply.

an evaluation program will be undertaken

The national policy framework should be subject to evaluation to assess its effectiveness in achieving its aims and objectives. The evaluation process will assess:

- Progress in achieving progress in the implementation of the policy;
- Planning processes to ensure consistency with implementing principles across regions.

A public report will be published annually on the outcomes of the evaluation.

research will be undertaken

Research is important for a number of reasons. These include the need for objectivity in assessing marine environments, threats and potential impacts of protection measures in meeting threats.

In addition research into economic and social consequences of proposed measures is to be undertaken to ensure that unintended consequences do not result from marine protection measures. These assessments are to be undertaken from appropriate baseline assessments.

governance

The governance processes for the national marine planning framework will be within a co-management model encompassing government, industry and community stakeholders. Key design principles for the governance framework include;

- Regional governance with national coordination;
- Engagement of regional industry and communities in open and transparent processes;
- Delegation of authority within a national framework to regional management groups;
- Delegation of authority for industry based regulation for the operation of marine businesses in and around marine protected areas;
- A focus on developing regional measures which enhance community understanding and result in behavior change that fosters environmental understanding and awareness.

conclusions and recommendations

The proposed bill seeks to increase the level of transparency, accountability and if appropriate enable a mechanism for debate and decision by the Parliament of proposals for Commonwealth waters.

The Australian Superyacht Industry supports the concept outlined in the Bill given the critical importance of this process for:

- The long term sustainability of marine environments against a background of increasing demands on these waters;
- The critical importance of well managed marine environments within Australian waters for the recreational and light commercial marine industry;
- The importance of an open, transparent and accountable process for the community generally and specifically for those sectors that rely on access and management of these waters.

We thank the Senate for the opportunity to advance this information as part of its deliberations on this important issue.