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Dr N Byron
Presiding Commissioner
ESD Inquiry
Productivity Commission
LB 2 Collins Street East
MELBOURNE VIC 8003

Dear Dr Byron ,

**DRAFT REPORT ON THE IMPLEMENTATION OF ECOLOGICALLY
SUSTAINABLE DEVELOPMENT BY COMMONWEALTH DEPARTMENTS AND
AGENCIES**

Further to our discussions and AFMA's meeting with Mr Andrew Coleman of your office, I am pleased to provide you with the enclosed copy of the Australian Fisheries Management Authority's (AFMA's) comments on the Productivity Commission's Draft Report on the Implementation of ESD by Commonwealth Departments and Agencies.

Mr Coleman met with senior AFMA management on Friday 19 March 1999 to discuss AFMA's response to the Draft Report. The attached submission is provided as a supplement to those discussions and is designed to expand on some of the key points raised. AFMA's comments are divided into four components, being general comments on the Draft Report, specific responses to the recommendations and key findings, suggested changes and background information on AFMA. This background information summarises documentation previously provided to the Commission and is designed to clarify comments made in the current submission.

If you have any further enquiries in relation to this matter please do not hesitate to contact either myself or Mr Phil Marshall, General Manager Strategy and Planning, on (02) 6272 5576.

Yours sincerely

Frank Meere
Acting Managing Director

AFMA's COMMENTS
ON THE
DRAFT REPORT
ON
IMPLEMENTATION OF ECOLOGICALLY
SUSTAINABLE DEVELOPMENT
BY
COMMONWEALTH DEPARTMENTS AND
AGENCIES

DRAFT REPORT ON IMPLEMENTATION OF ECOLOGICALLY
SUSTAINABLE DEVELOPMENT BY COMMONWEALTH
DEPARTMENTS AND AGENCIES

AFMA'S COMMENTS

FORWARD

This document contains the Australian Fisheries Management Authority's (AFMA's) comments on the Productivity Commission's Draft Report on the Implementation of ESD by Commonwealth Departments and Agencies (the Draft Report). The document supplements and expands upon discussions held with Mr Andrew Coleman at a meeting with AFMA on Friday 19 March 1999.

AFMA's response has been divided into four parts:

Part I containing general response to the Draft Report;

Part II Containing AFMA's specific responses to recommendations and key Findings of the Draft Report,-

Part III suggesting changes to enhance accuracy and/or clarity; and

Part IV containing background information on AFMA. This section provides a brief overview of the AFMA modal and operational arrangements and is intended to clarify comments made elsewhere in the submission.

Further information on this response can be obtained from Mr Phil Marshall, General Manager, Strategy and Planning on 6272 5576.

PART I - GENERAL COMMENTS ON THE DRAFT REPORT

By way of a general comment, AFMA supports the overall direction of the Draft Report and commends the Productivity Commission on its efforts to bring together a diverse range of views on what is a highly complex subject into a single document.

However, while the Draft Report provides a useful overview of the processes and issues underpinning the implementation of ESD, AFMA believes that the overall approach taken is somewhat simplistic and relies on the premise that the presence of good data, adoption of good policy making processes and improved co-ordination, monitoring and feedback will, in and of itself, lead to effective and efficient ESD implementation. This may not be realistic within the day-to-day pressures of implementing ESD.

With ESD as a principle legislative objective, AFMA has already made considerable progress towards this end, with key systems and processes in place to address ESD implementation. The Authority has a long term commitment to information gathering and data collection in the knowledge that good policy and decision making depends on having information available. However, factors such as the mobility and variability of the fish themselves, the high costs of dedicated research and the range, of other influences which impact on the health and availability of fish stocks and ecosystems, combine to make obtaining quality information an ongoing challenge for AFMA. Similarly, AFMA already embodies a strong partnership approach with stakeholders and has developed close links with other Government agencies and systems are in place to monitor AFMA's performance, both within AFMA and externally by agencies such as the BRS and ABARE. As can be seen, AFMA is already undertaking most of the items listed In Box 5.2 of the Draft Report,

A major variable missing from this equation, and one which needs greater emphasis in the Draft Report, is the political dimension. Experience has shown that, no matter what the relative weightings are, politicians are largely influenced by the social/political dimension of ESD and this has the potential to severely compromise good resource management and the implementation of broader ESD objectives. The AFMA model was established to provide for fisheries management at arms length from the political arena, this obviously requires political support.

Agencies implementing ESD are often faced with multiple and sometimes competing objectives which present substantial obstacles to achieving good ESD outcomes. Attempts to address this in the past have failed because of the social/political realities which influence the decision making process. The Resources Assessment Commission is an example of such an attempt and it is noted that the Commission was ultimately unsuccessful and disbanded.

Accordingly, AFMA views ESD as a continuum and something to strive towards rather than as a specific goal to be achieved, a concept which is reflected in the wording of AFMA's objectives, It is recommended that the Commission similarly give

consideration in the Draft Report to emphasising the 'pursuit', rather than the 'achievement', of ESD.

Other points to which AFMA would like to draw the Commission's attention are noted briefly below:

- Although mentioned, AFMA considers that the Draft Report should place greater emphasis on the fact that ESD also incorporates Development and not just environmental considerations. There is a general view that the environmental lobby has captured the ESD agenda and that adequate recognition and consideration is not given to the requirement for sustainable development.
- ESD is defined as having economic, environmental -and social dimensions although there is no suggestion of the relative weightings that apply or should be given to each of these dimensions. Of the three, it is the social dimension that presents the greatest potential difficulty to an agency of AFMA's relatively small size, particularly in relation to the financial and human resources that are required to obtain the information necessary to monitor the social implications of fisheries management decisions. Interestingly, current case law for AFMA indicates that there is no social dimension applying to AFMA's management of Commonwealth fisheries. A recent example is the judgement in the Bannister Quest case which gave a restrictive definition of ESD that related to sustainability of stocks and the environment which immediately affects those stocks and did not consider social issues. A further difficulty is that many agencies, including AFMA, do not have their "hands on all the levers" when it comes to social considerations, many of which are influenced by factors beyond the agency's control.
- It is recognised that there is wide variation in the content to which Commonwealth departments have incorporated ESD into their activities and therefore different issues may affect different organisations. For instance, AFMA already has focused legislative objectives and a clear mandate to pursue ESD but still struggles with many of the practical aspects of ESD implementation. Accordingly, from AFMA's perspective, the Draft Report would be more useful if it incorporated specific guidance on 'operationalising ESD. For instance, guidance could usefully be provided on the relative weightings that should be given to each of the three components of ESD).
- AFMA has well established programs in place for collecting data. These programs, which are essential to the MAC/CC/FAG process and for the pursuit of AFMA's objectives, are under continual review to improve relevance, accuracy, timeliness and cost effectiveness of data collected. However, it must be recognised that collecting data and gathering information, particularly in a natural resource environment such as fisheries, is an uncertain and high cost exercise. This is not well drawn out in the Draft Report and AFMA would like to see greater emphasis

placed on the fact that the high costs of data collection mean that it is not always possible to obtain the desirable level of information, and, therefore, certainty.

- In relation to performance information, AFMA has tended to focus on achieving biological (Sustainability) objectives and economic efficiency measures have been largely pursued at a 'macro' level. That is, AFMA has generally sought to implement management arrangements which provide for the market place to have a greater bearing on Fishery investment decisions leading to more efficient utilisation of resources. AFMA has sought to reduce the effect of market impediments through the introduction of more secure fishing rights and has encouraged a move towards TTQ management systems for those fisheries for which quotas would be most suited. However, there remains, a need for AFMA and other Commonwealth agencies to improve the capability to generate and collect data which would better monitor progress towards meeting cost efficiency and overall economic objectives. In recognising this need, AFMA would again emphasise the costs and resources required to collect this data.
- AFMA has employed various measures to reduce the number of authorised fishers in Commonwealth fisheries to enhance biological sustainability. Some of these measures have been explicit, such as the 1993 licence buy-back in the NPF, while others have implicitly contributed to the same end result. For example, the change in Commonwealth licensing arrangements (from non-specific CFBLs to fishery-specific Fishing Permits) brought about by the introduction of the 1991 legislation had the effect of reducing the number of authorised fishers. Full cost recovery has also provided an effective means of identifying all the costs involved and has resulted in adjustment in a number of fisheries with unviable operators electing to leave the fishery rather than contribute to the costs of management. While desirable in terms of pursuing AFMA's legislative objectives, such reductions invariably have social implications, which may be unintended and are largely unmeasured. In fact in this regard the Government's Cost Recovery Policy may potentially conflict with the social dimension of ESD,
- The Draft Report highlights the Great Barrier Reef Marine Park Authority and the Murray Darling Basin Commission in models of successful ESD implementation and partnership frameworks (page xix and others). With a mandated ESD objective, and a highly successful partnership approach that forms the basis of the Authority's management framework, AFMA is possibly at least as good an example if not better, of a successful model of ESD implementation.¹

PART 11 - RESPONSE TO KEY FINDINGS AND RECOMMENDATIONS

Finding 6.1

Evidence gained as part of this inquiry would suggest that a significant impediment to improved ESD policy making practices is failure to undertake the action of analysis - meaning that significant potential short and long term costs and benefits are not considered. To ensure consistency with ESD principles, as part of their policy development process, Commonwealth departments and agencies should take all reasonable and practical steps to consider explicitly the short term and long term economic, environmental and social implications of their program, policy and regulatory initiatives. Standard good practice policymaking principles, such as those outlined in RIS guidelines, should be followed routinely, regardless of whether a RIS is formally required. Adherence to good practice should be demonstrable and documented.

AFMA's Comment

AFMA agrees in principle with the thrust of this finding however, it is not always possible, feasible or cost effective to consider all of the implications of a particular program or course of action. This may be because of the significant costs involved (time and money), the gaps in available information, or because AFMA may not have responsibility for all the contributing components. AFMA therefore takes a pragmatic approach to managing Commonwealth fisheries and, in so doing, makes decisions on what constitutes an acceptable level of resources (human and financial) which should be allocated to such things as policy development, fisheries research, data collection, consultation etc. Such decisions take account of potential benefits and costs -and the level of risk and uncertainty but are not necessarily formalised or prescriptive. Formal cost/benefit studies and analyses of the sort proposed by the Commission are extremely complex, information demanding and resource intensive and may lead to "analysis paralysis" which is ultimately not in the best interests of good fisheries management practice. Importantly, AFMA recognises that it operates in an environment where perfect knowledge will never be available and where there will always be considerable uncertainty.

Draft Recommendation 6.1

An explicit statement of ESD principles should be included in the guidelines of existing policy development and evaluation mechanisms - for example, regulation impact statement guidelines.

AFMA's Response

It is not clear from this recommendation whether the Commission is suggesting that each agency should develop an explicit statement of principles for inclusion in any

guidelines that they may have or whether a single statement of principles will be developed centrally for use by agencies. Subject to clarification of this recommendation and assuming the ESD principles are not inconsistent with AFMA's legislative objectives, AFMA has no in-principle objection to including a statement in any guidelines that may apply. Given the environment in which the Authority operates and AFMA's specific needs, AFMA believes that it is probably best placed to develop these principles.

Finding 6.2

Where appropriate, the use of RISs and EIAs should be complemented by other tools such as health impact analyses and multicriteria analyses. This would assist in the identification of impacts and increase the transparency of decision making.

AFMA's Comment

AFMA's accountability provisions, including established MAC/CC and consultative processes and detailed legislative processes for developing Statutory Management Plans, ensure widespread stakeholder participation in the decision making process with the effect that AFMA's decisions are highly transparent. As noted previously, formal analyses of the type proposed by the Commission are extremely complex, information demanding and resource intensive and run the risk of "paralysing" the fisheries management process. While understanding why the Commission has suggested this recommendation, AFMA believes that it is a relatively simplistic approach to a complex problem and, accordingly, does not support this finding.

Finding 6.3

Consistent with current Government policy, the principles of output based management should be used as an additional tool to assist departments and agencies to develop, monitor and co-ordinate policies designed to achieve ESD objectives.

AFMA's Comment

Agree. It is suggested that "...achieve ESD objectives." be changed to "...pursue ESD objectives." in accordance with comments made previously on this issue.

Finding 7.1

Good practice principles facilitating effective co-ordination and stakeholder input should be followed routinely as part of the decision making process for policies, programs and regulations likely to have significant ESD impacts. These include...

AFMA's Comment

Agree. AFMA considers that a high degree of stakeholder input is essential and this approach is ensured through established MAC/CC and consultative processes.

Draft Recommendation 7.1

The relevant ministerial councils should routinely and as a matter of course inform each other of ESD issues likely to have relevance and implications for the other councils.

AFMA's Response

Agree in principle. However, given the nature of these bodies, AFMA has some reservations about how such communication would work in practice and whether or not there would be scope for an adequate and comprehensive exchange of views.

Draft Recommendation 7.2

The Commonwealth Government should consider means to improve the efficiency and effectiveness of the processes of these councils with respect to ESD implementation, particularly the extent to which individual councils have clearly specified objectives with respect to ESD implementation, and are meeting them.

AFMA's Response

Agree - subject to comments; noted in AFMA's response to Recommendation 7.1 above.

Draft Recommendation 7.3

Consistent with the principles of good practice policy making, departments and agencies should regularly and as a matter of course monitor the efficiency and effectiveness of their ESD related policies, programs and regulations. As such, the development of performance indicators against clearly stated objectives should be mandatory early in the policy development phase. In this regard, the framework of the National Land and Water Resources Audit should be expanded and adapted to other areas, such as those highlighted in the State of the Environment Report, for example, biodiversity, air quality and fisheries.

AFMA's Response

Agree in principle. AFMA already includes and reports against performance indicators in its key corporate accountability documents and management plans. These indicators are consistent with the Authority's legislative objectives. However, factors such as insufficient data, gaps in information and the costs of researching the additional information make monitoring indicators a difficult task. External agencies such as BRS and ABARE already have a specific role in monitoring AFMA's performance.

Draft Recommendation 7.4

Data collection relating to ESD Issues should be rationalised to avoid duplication of effort and coverage. The ABS should be given the major responsibility for developing, in consultation with stakeholders, standard classifications and consistent measurement protocols for the collection of state of the environment data and other sustainability indicators. The current work of the ABS in this area should be given a high priority.

AFMA's Response

Agree in principle. AFMA supports development of standardised classifications and consistent measurement protocols to avoid duplication of effort and coverage, however, AFMA would not like to see its existing data collection programs compromised. Without having specific experience outside fisheries management, AFMA believes that this would be a major task and may not be achievable.

Draft Recommendation 7.5

The Commonwealth Government, in co-operation with State and Territory Governments, should develop a framework to facilitate performance measurement and enable comparisons of the effectiveness and efficiency of Commonwealth, State and Territory policies and programs in ESD related areas such as the environment and natural resource management.

Initially, priority should be given to areas of major expenditure allocated under the National Heritage Trust, such as land, vegetation and rivers.

AFMA's Response

Agree.

PART III - SUGGESTED CHANGES

AFMA has identified some explicit errors of fact and some information which has been presented in a way which is incomplete and therefore may be misleading to readers. These are largely located in Appendix D2 to the Draft Report and a brief explanation and/or suggested rewording have been provided in relation to these items. Some of these changes may have flow on effects to the wording of the main Report.

Pg 101 - main report

Last paragraph from top of page

Second sentence - note that both Management Advisory Committees (MACs) and Consultative Committees (CCs) have been established for each major fishery as opposed to just consultative committees.

D.2 Fisheries Management Plans

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1st paragraph under Background

The Fisheries Management Act 1991 requires AFMA to manage Commonwealth Fisheries in accordance with ALL, its legislative objectives, not just the ESD objective as suggested by the current wording. If the intention is to highlight an example of how AFMA implements ESD it would be more correct to say "This Act requires AFMA to develop management plans for all commercial fisheries under its control and to manage them in accordance with its ESD and other legislative objectives."

2nd paragraph under Background

The first sentence which states that "the bulk of fishing which occurs, within the AEEZ is the responsibility of the States" is misleading. It is true that fisheries managed by the States, eg rock lobster, abalone, have a higher value than many Commonwealth Fisheries, however, it does not therefore follow that the "bulk" of fishing is the responsibility of the States. Rather, the management of Australia's fisheries resources is a shared responsibility between the Commonwealth Government and State and Territory Governments. The States and Northern Territory generally manage the fisheries that are inland and those within three nautical miles of the coast and the Commonwealth managed the offshore and highly migratory stocks beyond that to 200 nautical miles. Some fisheries, eg Torres Strait fisheries, are jointly managed by the Commonwealth and State Governments under agreement. Alternatively, as the case study relates to Commonwealth Fisheries management it may be appropriate to delete this reference altogether and commence the paragraph with "the Commonwealth is responsible for..."

The last sentence of paragraph 2 should more accurately read "All other Commonwealth fisheries are managed administratively wider policies based on AFMA's Corporate Plan and the Fisheries Management Act 1991."

4th paragraph under Background

The paragraph lists a number of activities that AFMA undertakes in addition to devising and implementing management plans. Note that the establishment and allocation of fishing rights (as noted on the 2nd line of the paragraph) is undertaken as part of the implementation of management plans and is not a separate process. As such, it does not warrant a separate reference.

Suggest that the words "...and cooperates..." be deleted from the third line of this paragraph. AFMA consults with the industry and public in what is inherently a cooperative process and 'consults with' should be sufficient to convey that point.

1st paragraph under Objectives

In the first sentence it is more accurate to say that "Management plans give effect-to the legislative objectives'.

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Continuation of paragraph I

Per the last sentence of paragraph 1, AFMA only takes account of international conventions where to do so is consistent with the pursuit of AFMA's legislative objectives. Accordingly, a better way of phrasing this sentence would be "There are also a number of international conventions relating to the marine environment which AFMA takes account of where to do so is consistent with the pursuit of AFMA's legislative objectives. Many of these conventions pre-date the NSRSD but nevertheless incorporate ESD principles."

2nd paragraph under Objectives

Last sentence - delete "...maintaining industry viability...". It is not AFMA's express objective to maintain industry viability, however, AFMA's objectives relating to economic efficiency and ESD aim to promote and support this outcome.

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Table D.1 - Summary of Objectives Contained in Management Plans

In relation to the South East Trawl management plan, the objectives of 'exploitation consistent with ESD' -and 'exercise the precautionary principle' should be ticked as these are contained in that plan.

Dot points under Strategies and Actions

The following are suggested to enhance accuracy:

Relace the first dot point with "the allocation of statutory fishing rights".

Delete the second dot point "rights given to quota/fishing licence holders".

Add "...fishing under a Scientific Permit" to the end of the third dot point.

Replace the fourth dot point with "the number of statutory fishing rights to be distributed" and move this point to second in order.

Replace the fifth dot point with "obligations of statutory fishing right and other concession holders to provide information to AFMA".

1st paragraph under the dot points

Delete "technologies and" from the paragraph.

2nd paragraph under the dot points

At this point in the paper it would be useful to provide an overview of the two principal fisheries management tools that AFMA uses, ie input and output controls. rather than focusing on one of those tools ie TACs (note: Total Allowable Catch not Total Annual Catch). As such, it is suggested that the second and third paragraphs under the dot points on page 183 and the first and second paragraphs on page 184 be replaced with the following:

"AFMA seeks to ensure that fishing is sustainable. In order to control growth in aggregate harvesting capacity, AFMA employs two basic management tools. The first of these management tools, known as output controls, seek to directly constrain the level of catch, Generally, output controls involve the setting of a total allowable catch (TAC) and apportioning this to individual fishers -as individual transferable quotas (ITQs). ITQs represent a right to fish a certain amount of stock and thus give concession holders effective ownership over that amount. Fishers may buy and sell quota from other concession holders. Through this buying and selling process, ITQs bring about a rationalisation of the fishing fleet which should result in more efficient operators remaining in the industry. This is the only system of managing fisheries yet devised that provides a market driven system that maintains a balance between fishing capacity resource availability. The corresponding TACs are established after extensive consultation between fishery managers, the fishing industry, scientists and other interested parties.

The secondary category of management instruments 'is commonly referred to as input controls. Input controls directly address the symptom - excess fishing effort (inefficiency or over-capacity) - as opposed to the underlying problem of weak property rights. In fisheries managed through input controls, excess capacity can only be removed by direct management intervention such as restrictions on vessel size, type of harvesting gear that may be used, number of trips a vessel can take per day, length of nets, number of hooks and through closed seasons/areas where no fishing is allowed during specified periods or within certain areas. Input controls, which are the most commonly used management tool in Australia and world-wide, directly restrain the efficiency with which individual fisheries harvest fish.

To ensure that fisheries are managed efficiently, AFMA's preferred management method, wherever possible, is to use an ITQ system to allocate a TAC between fishers. However, ITQs are not always the most appropriate management method, for all fisheries, particularly those in which the target species is short lived eg prawns. In such cases, input controls continue to be the principal form of management in the fishery. Even in fisheries that are operating efficiently under a quota system, managers often find they still have to regulate certain technologies and close fisheries at certain times."

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1st paragraph from top of page

The issue of 'unintended social costs' has not been included in the revised wording above as AFMA has no mechanism for considering and taking account of the social costs of ITQ implementation.

3rd paragraph from top of page

It is true that there "is no specified 'expiry' date for management plans and that they may be modified in line with any new information on the fishery. However, the example given of the SBT Fishery Management Plan is not related to modifying management plans per se. Rather, 'continuous evaluation and data collection' are processes and actions taken under the management plan for the purposes of good fisheries management. A better example is the Northern Prawn Fishery where a proposed major amendment to the NPF Management Plan currently in progress will change the nature of effort controls in response to concerns over the sustainability of prawn stocks.

2nd paragraph under Ex ante Assessment

This paragraph is somewhat misleading as, prior to 1995, AFMA had only developed one relatively minor Management Plan (for the Great Australian Bight Trawl Fishery) under the 1991 legislation, although it is correct to say that no EIA was undertaken in relation to that Plan. However, in 1995, both the SBT and NPF Management Plans

were referred to the then Environment Protection Agency (EPA). Both Plans underwent an assessment process and were cleared by the EPA.

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2nd paragraph from top of page

The reference to Environment Australia could be confusing when read in conjunction with the previous reference in the last paragraph on page 184. AFMA have advised that, although the organisation has changed since 1996 (when the SBT Management Plan was considered) and is now part of the Department of Environment and Heritage (DEH), the name Environment Australia (EA) is still relevant. Accordingly, AFMA have suggested that "...the then" be removed from the first line of paragraph 2, and, if considered necessary, a reference be made to EA now being part of DEH. They have further suggested that the third sentence of this paragraph be amended to read "Plans are forwarded to Environment Australia..".

1st paragraph under Coordination with Other Government Agencies and Programs

The Australian Nature Conservation Agency (ANCA) is now defunct and the reference should be removed. For simplicity, AFMA have again suggested that "Environment Australia" (EA) be substituted for the references to both the Department of the Environment and Heritage (DEH) and ANCA, recognising that EA is a sub-group of DEH and consists of both the Portfolio Marine (Group and the Biodiversity Group, both of which AFMA has dealings with.

2nd paragraph under Coordination with Other Government Agencies and Programs

Again, delete references to ANCA and the DEH and substitute EA.

3rd paragraph under Coordination With Other Government Agencies and Programs

AFMA is not represented on ANZECC.

AFMA has provided input in relation to the petroleum and EP Acts and continues to do so. Suggest inserting "and continues to do so, although these Acts are now administered by other departments" after 1982 on the last line of the paragraph.

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3rd paragraph from top of page

AFMA administers compliance programs directed towards both domestic and foreign fishing vessels and it is unclear to which this paragraph is referring. AFMA undertakes its compliance functions in conjunction with other relevant Commonwealth agencies, with specific compliance functions in the field being undertaken by officers from State fisheries authorities on an agency basis,

In relation to domestic compliance, AFMA uses the resources of State fisheries agencies, as well as private contractors, to undertake surveillance and monitoring functions and also works closely with the Australian Federal Police to investigate suspected breaches against the Fisheries Management Act 1991.

Foreign compliance programs cover both authorised and unauthorised foreign fishing activities in the AFZ and are carried out by AFMA with the assistance of State fisheries authorities and in conjunction with other relevant agencies such as Coastwatch, RAN, RAAF. These latter agencies are generally not involved in domestic compliance.

AFMA uses risk assessment and compliance planning processes in relation to both foreign and domestic fishing, however, MACs are only involved in compliance planning in relation to domestic fisheries, not foreign fishing.

1st paragraph under Involvement of Other Stakeholders

In the second sentence it may be more appropriate to say that "AFMA maintains close consultative links with stakeholders through the established MAC/CC process and encourages input from other interested parties, when developing its management plan" to avoid any suggestion of industry capture.

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1st, 2nd and .3rd paragraphs from top of page

For greater accuracy, it is suggested that these three paragraphs be replaced with the following.

"A Management Advisory Committee (MAC or Consultative Committee (CC) is established for each major fishery. The MACs/CCs are expertise based and advisory in nature and play a central role in the management of Commonwealth fisheries by providing the forum where issues relating to the fishery are discussed, problems; are identified and possible solutions are developed. The MACs/CCs are AFMA's main point of contact with each fishery and are the key mechanism for incorporating stakeholder input into fisheries management arrangements,

MACs/CCs comprise a Chairperson, an AFMA member and up to seven other members drawn from the fishing industry, the research community, and environment/conservation organisations. Where a fishery or a plan of management

covers both commercial and recreational fishing this will be reflected in the membership of the MAC. The AFMA Board has final responsibility for determining the actual membership of each MAC/CC based on the particular needs of the fishery.

The functions of the MACs/CCs, which are determined under the Fisheries Administration Act 1991, may vary depending on the nature of the fishery. In broad terms, MACs/CCs are charged with providing advice and recommendations to the AFMA Board on management and operational issues related to the management of a particular fishery. In so doing, MACs/CCs provide stakeholder input into such things as management plans and surveillance-compliance budgets. In addition, MACs/CCs also identify and make recommendations on research priorities. Research priorities identified at the individual MAC/CC. level are reviewed and prioritised from an AFMA-wide point of view by the REC and forwarded to the FRDC for consideration."

4th paragraph from top of page

First sentence - suggest replacing ".-often time consuming consultation..." with "...often lengthy consultation...".

Figure D.1 - Typical Representation of AFMA MACs and CCs

In accordance with a Ministerial direction, AFMA is appointing environment/conservation members to each MAC/CC. To ensure a smooth transition, appointments are made as the terms of appointment of current members expire. To date, AFMA has appointed environment/conservation members to all but a couple of its MACs/CCs. To accommodate these appointments within the existing restrictions on MAC membership numbers (ie 9 members.), State Government membership is now being provided through permanent observer status rather than full membership. These changes should be reflected in the pie diagram.

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1st paragraph under Monitoring, Evaluating and Reporting Procedures

Performance criteria are determined as part of the development of a Management Plan, They are not developed separately to that Plan, nor are they ongoing in their own right as might be implied from this paragraph. For clarity and accuracy, it is suggested that the paragraph be reworded as follows:

"In Accordance with the provisions of the Fisheries Management Act, AFMA determines performance criteria as part of the development of each Management Plan. Progress against the criteria is monitored And reported in AFMAs Annual Report. The Annual Report contains assessments of all Commonwealth fisheries managed by AFMA whether or not those fisheries are subject to a Management

Plan. Fisheries for which no Management Plan is in force are assessed against AFMA's Corporate Plan and the Fisheries Management Act."

3rd paragraph under Monitoring, Evaluating and Reporting Procedures

Question whether first line should say "above" or "below"??

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2nd and 3rd paragraphs from top of page

The details in these paragraphs are not entirely correct and it is suggested that, for accuracy, these paragraphs be replaced with text drawn from Section 1.3.2 in Part IV. Key points to note are that:

- FAG is an acronym for Fisheries Assessment Group not Fisheries Advisory Group;
- AFMA does not have any Scientific Advisory Groups although there is a Torres Strait Fisheries Scientific Advisory Committee;
- AFMA does have groups known as Stock Assessment Groups which have been established to provide advice on individual species in the South East Trawl Fishery. These SAGs report to the FAG for that fishery. Assessment for all other fisheries is undertaken on a 'whole of fishery' basis under the auspices of fishery-specific FAGs;
- FAGs are comprised of a range of members, not just scientists; and
- FAGs are established by the AFMA Board, not the MACs/CCs although they work in cooperation with the MACs/CCs.

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3rd paragraph from top of page

Question whether the statement that "...no progress towards ESD was made in the South East Trawl Fishery..." has been taken out of context. On the face of it as presented, AFMA would dispute this statement. The BRS methodology is relatively new and produces an overall result. Therefore, while the statement may be accurate on an overall basis, it does not mean that AFMA hasn't made progress in some of the component areas. For example, while it may be too early to be certain, AFMA has concentrated on the sustainability of the stocks and can claim some success in this area.

1st paragraph under Other Supporting Activities

First line - replace "...completing..." with "...determining...",

Third line - delete reference to SAGs

PART IV - BACKGROUND

1.1 The AFMA Model

AFMA was established in February 1992 following the passage through Parliament of the Fisheries Administration Act 1991 and the Fisheries Management Act 1991. These two pieces of legislation created the statutory authority model for fisheries management whereby day-to-day management of fisheries was vested in AFMA, with the broader fisheries policy, international negotiations and strategic issues being administered by a smaller group within the then Department of Primary Industries and Energy (now Agriculture, Fisheries and Forestry - Australia).

1.1.1 Spatial Fisheries Management Agency

As a statutory authority, AFMA has been set up as a specialist Commonwealth fisheries management agency external to, but working closely with, Agriculture, Fisheries and Forestry - Australia and strategically with the Minister With portfolio responsibilities for fisheries matters. In this role, AFMA obtains the latest scientific, economic, industry and management advice as the basis for ensuring that commercial fishing is carried out sustainably in pursuit of AFMA's legislative objectives. A significant advantage arising from AFMA's legislative objectives is that they provide a clear direction and focus for the organisation. While this does not mean that AFMA's objectives -are completely compatible with each other, they do provide a bounded framework within which AFMA must function.

In pursuing its objectives, AFMA provides a range of management, advisory, compliance and licensing functions and develops appropriate management policies, arrangements and regulations. To facilitate this process, AFMA has established sound administrative -and legislative systems and developed strong links with stakeholders.

1.1.2 Independence from Minister

An important feature of the AFMA model is that it enables the Minister with portfolio responsibility for fisheries to operate at arm's length from the day-to-day decisions on fisheries management, with this responsibility passing to an expertise based Board and a Management Advisory Committee/Consultative Committee (MAC/CC structure which draws its membership from relevant stakeholder groups, including the commercial fishing industry. The fishing industry in particular has responded positively to the open and transparent process of decision-making.

The AFMA model contrasts markedly with fisheries management by Ministers based on advice from Government departments which can be hampered by overriding political imperatives and a lack of understanding of commercial realities and the day-to-day environment in which industry in particular operates, thus creating an overly bureaucratic decision making process which does not enjoy stakeholder support

1.1.3 Accountability Provisions

While the Minister is not involved in AFMA's day-to-day operations, AFMA has a clear accountability to both the Minister and the Parliament (and therefore the community) for the management of what is a community owned natural resource. The Minister oversees the Authority's activities through key accountability provisions of the legislation which require that the Minister approve the AFMA Corporate Plan and Annual Operational Plan and that AFMA submit an Annual Report to the Minister and the Parliament, The Minister must also formally accept each fisheries Management Plan before it comes into effect.

AFMA is also required to provide a copy of the Annual Report to the peak industry body, the Australian Seafood Industry Council (ASIC), and consult with that organisation on the Corporate Plan. The Chairman and Managing Director are also required to report on AFMA's performance to the ASIC Executive. Additionally, AFMA holds an annual public meeting to consult with Industry, other stakeholders -and the general public.

1.1.4 A Partnership Approach

The AFMA model, and the legislation which underpins it, places a strong emphasis on a co-operative partnership approach between fisheries managers, scientists, fishing operators, environment/conservation and recreational fishing interests (where appropriate) and other relevant stakeholders in the process of developing and implementing fisheries management arrangements. Central to this approach is the establishment and operation of Management Advisory Committees (MACs) and Consultative Committees (CCs) for each major Commonwealth Fishery.

AFMA believes that the achievement of sustainable fisheries and the pursuit of its legislative objectives is very much linked to the level of trust and confidence that exists between industry, fishery managers, the environment/conservation sector, researchers and stakeholders generally. Whilst sound legislation and policy is essential, AFMA considers that there is no substitute for building positive relationships between all those involved. Since its inception in 1992, AFMA has emphasised the importance of all stakeholders taking both ownership of decisions and greater responsibility for the wellbeing of individual fisheries. This view has been supported by other agencies, both within Australia and internationally, and many are now adopting a similar partnership approach to fisheries management.

In the end, enabling stakeholders to provide advice and input to the consideration of fisheries management issues costs relatively little yet, in AFMA's experience, remains crucial to the development and implementation of practical, cost-effective and ecologically sustainable fisheries management outcomes fisheries- Importantly, these outcomes are more readily achieved because the MAC/CC structure allows stakeholders to have a direct input into, and take responsibility for, the decision making process. AFMA has found this to be a critical factor in ensuring that the

Industry, in particular, buys-on to and accepts the need to take account of the environmental/conservation pressures facing Australian fisheries today.

1.1.5 Rights Based Management

In Australia, as in most countries, there is an absence of private ownership over fish resources. All Australians, through the Commonwealth, "own" fish resources and individual harvesters are often given ill-defined or weak access (as opposed to ownership) rights to fish resources. This invariably results in economic inefficiency and resource over-exploitation. Typically, in the absence of regulation or restriction, an individual fisher will tend to continue to increase effort in a fishery until the cost of catching an additional fish is greater than the price received for it. In addition, the fisher who catches fish from a stock which many others have access to has a good reason to take as much as he can as quickly as possible, with the result that each fisher is competing with other fishers to get a greater share of the catch.

Historically, the combined effects of increasing effort and unrestricted competition have been to drive many fish stocks to levels below that which would provide optimum future catches. In addition to overfishing, the competition between fishers to get the biggest share of the divisible catch will often lead to over-investment in vessels and technology (overcapitalisation). Overfishing and overcapitalisation, lead to fisheries that have poor catches and low profitability, and which drain production resources out of the rest of the economy.

The community has a strong interest in implementing effective fisheries management and, through AFMA, in establishing regulatory regimes that control fishing effort. From an economic perspective the ideal restrictions are those that leave commercial incentives largely intact, while addressing the problems of overfishing and overcapitalisation. Secure access gives fishers an incentive to co-operate with management and to act jointly to conserve stocks. Furthermore, transferable rights are essential for markets to operate effectively and to enable fishers to increase or decrease their investment in a fishery.

AFMA is committed to providing fishers with stronger rights and, under its economic efficiency objective, has adopted policies of pursuing economically efficient harvesting regimes and providing positive market-based incentives for commercial fishers to enhance and conserve resources through the provision of secure and transferable access rights (statutory fishing rights¹) within statutory management plans for major commercial fisheries.

To this end, the introduction of individual transferable quotas, (ITQs), based on a pre-determined total allowable catch (TAC), has been adopted as the preferred fisheries management approach wherever feasible and cost effective. Under management controls known as output controls, ITQs are allocated to individual harvesters who, by receiving a right to harvest a pre-determined catch, no longer face an incentive to invest in "racing for the fish". In other words, the management

instrument - in this case ITQs - assigns property rights, and thereby eliminates the problem that is the underlying source of economic inefficiency in harvesting.

The setting of a TAC and apportioning this to individual fishers as ITQs is the only system of managing fisheries yet devised that provides a market driven system that maintains a balance between fishing capacity and resource availability. It was for this reason that ITQs were identified in the then Government's 1989 Fisheries Policy Statement, *New Directions for Commonwealth Fisheries Management* in the 1990s, as its preferred method for managing Commonwealth fisheries.

In taking this approach, however, it is recognised that the decision of whether to introduce ITQs in a fishery is often not straight forward and that output controls may not be the most appropriate management method for all fisheries. Economic research is normally required to identify the relative costs and benefits of ITQs and alternative input-based controls (controls which directly address excess fishing effort), taking into account the expected management costs associated with each option. Gaining industry support for ITQs is also fundamental to the decision on whether to proceed with implementation.

1.2 AFMA's Operating Environment

The fisheries environment is one of considerable risk and uncertainty for both fishers and fisheries managers. Australia has a vast fishing zone which is larger than its land area and, unlike land-based resources, fish stocks are extremely difficult to observe directly and their mobility and variability makes it difficult to assess both stock sizes and sustainable harvest levels.

In this environment, AFMA's control only extends to one part of fishing operations - regulating the harvesting of fish by commercial fishers. The fisheries management process is highly complex and is subject, to a range of other influences which impact on the health and availability of fish stocks, including other human activities, the biological characteristics of the fish stock itself, critical environmental conditions (rainfall, water temperatures, currents and nutrients), predator/prey relationships, the complexities of the food chain in the marine environment, natural mortality and the effects of habitat destruction and land based pollution.

¹ A SFR is created by the statutory plan of management enacted for a specific fishery. Although it can be simply the right to use a boat in that fishery, a SFR may also be the right to use a specific quantity of fishing gear or to take a specific quantity of fish (or proportion of a TAC). SFRs are tailored to suit the specific management arrangement's for the fishery for which they are granted. The object in granting SFRs is to create, as far as is considered prudent, a set of access rights that more closely represent the needs of the fishing industry and normal commercial practice and expectations.

Many of these influences are subject to change without warning and are difficult to predict or measure, particularly environmental influences. In general, little is known about how these influences affect the behaviour of a particular species or the size of fish stocks: because of the environment in which fish live, dedicated fisheries research is expensive, results are uncertain and there remain large gaps in our knowledge. In

reality, the resources needed to access all the necessary information and to make precise assessments of stocks and fishing impacts are beyond the financial capacity of industry or Government.

In such an environment, AFMA can never guarantee resource sustainability, although it does seek to maximise the likelihood of such an outcome by gathering and making the best use of available data, instituting priority research programs, establishing appropriate risk assessment and decision making processes and enforcing management arrangements. However, while there can never be any guarantees, fish, unlike some other resources, are renewable and they can be managed, using the precautionary principle, on a sustainable basis to produce an ongoing flow of benefits to the Australian community.

1.3 Fisheries Management

Fisheries management is a complex and dynamic process in which decisions must be made on issues such as the type of management regime to be employed (input controls versus output controls), the research objectives to be pursued, the compliance strategies to be implemented and the manner in which the resource should be allocated. All of these issues need to be considered in the broader context of the marine environment and in accordance with AFMA's objectives, particularly the key fisheries management objectives relating to ESD and economic efficiency.

1.3.1 Ecologically Sustainable Development - the AFMA Perspective

AFMA has a strong commitment to contributing to the protection of the ocean's ecosystems and biodiversity by promoting sustainable use of fisheries resources. AFMA has the legislation, the consultative links and the expertise to address such issues and also works closely with other agencies responsible for coastal and ocean management as the impacts of all human activities on marine living resources becomes more evident.

AFMA has a clear objective under its legislation to ensure that those fisheries for which it is responsible are managed and utilised in accordance with the principles of ecologically sustainable development (ESD). AFMA sees this objective as requiring it to pursue management of fisheries resources so as to ensure that the way we use, conserve and enhance these resources, within the ecosystem, is such that the contribution fisheries make to our total quality of life, both now and in the future, is secured.

In more practical terms AFMA sees this objective -is requiring it to manage fisheries so as to minimise the impact of fishing on biological diversity and ecosystem habitat. This is done in the full recognition that any industry activity will have some impact on the ecosystem. AFMA also sees this objective as requiring it to manage the long term sustainability of fisheries resources for the benefit of all users and interest groups. This requires that stocks be conserved and, where necessary, rebuilt.

AFMA is committed to pursuing its ESD objective, as with all its legislative objectives, in a way that is fully consultative and that results in the greatest degree of acceptance amongst all stakeholders consistent with achieving desired goals. One of the particular strengths of the AFMA management model is the formal consultative process with major client groups, through the MACs/CCs, which provides a framework for encouraging shifts in attitude towards sustainability of fisheries.

Information provided by a well directed research program is essential to effective fisheries management. In Commonwealth-managed fisheries, research is centred on gathering and analysing information with respect to the status of fisheries stocks (both targeted and bycatch) and then, more broadly, the ecosystem. Stock assessment is fundamental to fisheries management decisions and is also a particular requirement of the fishing sector.

In recent years, significant research effort has been directed towards the environmental impacts of fishing, developing mitigation and bycatch reduction methods and other ecological research areas requiring attention. A number of research projects are being undertaken or planned to underpin AFMA's pursuit of its ESD objectives, particularly with respect to the impact of fishing gear on the marine environment and the need to reduce bycatch. As the Commonwealth Fisheries Research Advisory Board (FRAB) to the FRDC, AFMA's Research and Environment Committee plays a central role in defining general research priorities for Commonwealth fisheries and has, in particular, helped to facilitate general support for research into the extent and impact of bycatch as an issue in Commonwealth Fisheries.

MACs and CCs play a pivotal role in planning the future direction of research needed to manage fisheries through the development of Five Year Strategic Research Plans for each major fishery. In almost all of these Plans, research into bycatch, including quantification, impacts and gear research, has been identified as a high priority, indicating that stakeholders, including industry, recognise the need for action on bycatch and are well aware of the requirement to broaden research from the standard target stock assessment. Industry's positive response to the changing research priorities is particularly encouraging given that the outcomes of this research may result in restrictions being placed on fishing activity and, sometimes, in financial costs such as when existing gear is required to be modified or new gear purchased.

In striving to achieve a balance between resource use and conservation, AFMA, the MACs and CCs also draw upon advice provided by Fisheries Assessment Groups (FAGs) which have been established for each major fishery group or individual species. FAGs comprise fishery scientists, industry members, fishery economists, management and other interest groups. The wide membership ensures that, in addition to scientific information on each fish stock, industry knowledge and developments in management strategies, market prices and the costs of harvesting are also taken into account. FAG meetings, are funded by AFMA from the AFMA Research Fund, which is drawn from Government sources on the basis that the wider community has an

interest in having robust assessments of stocks and sound resource usage strategies. As such, FAGs are not a body of the MACs/CCs and operate independently from them, although the two groups work closely together.

The FAGs synthesise biological, ecosystem and economic information on Commonwealth fisheries to provide advice to AFMA and coordinate, evaluate and regularly undertake stock assessment activity in each fishery. They report their recommendations, through the individual fishery MACs/CCs to the AFMA Board on issues such as the setting of TACs, stock rebuilding targets, biological reference points etc. In effect, the FAGs provide advice taking account of uncertainty and seek to identify the risks associated with the alternatives (risk assessment). The MACs/CCs consider this advice and provide recommendations to the Board based on how the alternatives will contribute to meeting overall objectives for the particular fishery (risk management) and, ultimately, to the pursuit of AFMA's legislative.

FAGs also advise research sub-committees on the type of information required for stock assessment fishery assessments for orange roughy and school shark have been reviewed by international experts who, in both cases, commented that the assessments were amongst the best in the world. AFMA has implemented a stock rebuilding program for orange roughy and is currently progressing a sustainable harvesting regime for school shark.

1.3.3 Data Collection

Good decision making depends on having good quality information available. This means information which is relevant, accurate and timely. An on-going difficulty for AFMA's MACs/CCs and FAGs is that quality information is often not available when required, or that it may be expensive to collect relative to the value of the fishery. In some fisheries, institutional arrangements may have resulted in some long term, data series not having been implemented in time to be of value. Similarly, some existing data series may be found to be wanting in terms of relevance or accuracy.

The implementation of a management strategy evaluation approach by AFMA since its formation in 1992 means that some of the programs in place prior to 1992 have come under review. In many instances, established data bases continue to be the mainstay of stock assessments. However, on occasions, FAGs have had to heavily qualify their advice because of the absence of adequate data on which to make robust stock assessments. In many such cases, MACs have recommended harvest strategies based on catch levels known to have been sustained (within often wide fluctuations) over a long period, or have opted for 'adaptive management' strategies within which catches may have to be substantially revised if adverse stock impacts emerge.

AFMA maintains several monitoring programs with the intention of providing the information necessary for MACs/CCs and AFMA Management to carry out their functions. These: fall under the two broad categories of stock assessment and compliance monitoring.

As a result of the annual review of fishery compliance arrangements, data collections and the methods used to collect the data are subject to periodic and on-going assessment. As industry contributes to the cost of compliance programs, the cost/effectiveness of data collections is subject to critical review.

AFMA prepares annual Compliance Operational Plans for each major fishery. These plans contain a large degree of intuitive risk assessment which AFMA is in the process of establishing on a more formal and objective basis. Essentially, the plans seek to identify the inherent risk to management objectives of possible illegal activities and to identify control mechanisms which would reduce that risk. Sometimes through the use of separate working groups, but eventually through MAC assessment, industry has a direct input to the assessment of risks and on the development of strategies which would reduce risk. As such, the partnership approach is an essential element in identifying problem areas and in reaching agreement on solutions. Once Compliance Operational Plans are agreed upon by the MAC, they are instrumental in the preparation of budgets by AFMA Management and MACs for the following financial year, during which the compliance plan would come into operation.