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Dr Neil Byron
Native Vegetation Inquiry
Productivity Commission
LB2 Collins Street East
MELBOURNE VIC 8003

Dear Dr Byron

**AFMA SUBMISSION TO THE PRODUCTIVITY COMMISSION ON ITS
INQUIRY ON THE IMPACTS OF NATIVE VEGETATION AND
BIODIVERSITY REGULATIONS**

The Australian Fisheries Management Authority (AFMA) welcomes the opportunity to provide a submission to the Productivity Commission on its inquiry on the Impacts of Native Vegetation and Biodiversity Regulations. Increasing government regulation in relation to promoting marine biodiversity, primarily through the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), has significantly affected AFMA (as the agency responsible for managing Commonwealth fisheries) and the fishing industry.

AFMA was established in 1992 under the *Fisheries Administration Act 1991* to administer the *Fisheries Management Act 1991*. The legislative objectives that AFMA must pursue relate to ecologically sustainable development (ESD), economic efficiency, cost effective and efficient management, accountability to the fishing industry and the Australian community and achieving government targets in relation to the recovery of the costs of AFMA.

The EPBC Act imposes a number of requirements on AFMA which directly affect the fishing industry. While the goals of the EPBC Act are largely consistent with AFMA's legislative objectives, the extensive approval requirements for fisheries in the EPBC Act and policy approaches in implementing the requirements of the Act, are producing significant negative impacts on AFMA, state fisheries management and the fishing industry.

EPBC Act Impacts

Part 10 of the EPBC Act singles out fisheries managed by the Commonwealth and specifically AFMA. All AFMA management plans are required to be strategically assessed by the Department of Environment and Heritage, in effect creating a review of a part of AFMA's core business. Under the EPBC legislation, AFMA is required to have commenced the assessment of two thirds of all Commonwealth managed fisheries by July 2003 and for the remaining fisheries by July 2005.

The Department of Environment and Heritage has recently stated that this strategic assessment currently only relates to one matter of National Environmental Significance (Commonwealth marine environment), despite other specified matters being directly relevant to fisheries (World Heritage properties; wetlands of international importance; and protected species). This may leave operators liable to future prosecution.

In addition, under Part 13A of the EPBC Act, all fisheries in Australia from which product is exported require approval. This requirement provides for environmental assessment of both Commonwealth and State fisheries and as a result, has accelerated the pace for AFMA of responding to Part 10 strategic assessments. Previously under the *Wildlife Protection (Regulation of Exports and Imports) Act 1982 (WP(REI) Act)* fish were permitted to be exported without requiring approval under that Act. The WP(REI) Act was amended and eventually incorporated into the EPBC Act requiring that approval be sought under the Act by 1 December 2003 to allow fish product to be exported. As only a limited number of fisheries have yet been assessed, the Minister for Environment and Heritage has extended the deadline to 1 December 2004.

Fisheries that interact with protected species also require approval under Part 13 of the EPBC Act.

As part of the approval process the Minister for Environment and Heritage can approve fisheries for up to five years and may make recommendations for certain actions to be undertaken in a fishery to ensure ongoing approvals.

Operators also require approval to fish in marine protected areas.

AFMA has a number of fisheries for which we have not and/or do not intend to develop management plans but which are effectively managed under a system of individual fishing permits. The EPBC Act does not deal effectively and efficiently with such fishing operations when it comes to getting approvals and thereby leaves individual fishing operators open to prosecution in the course of their normal operations.

Impact on the Fishing Industry

AFMA is currently preparing environmental assessment reports to address a number of requirements under the EPBC Act. To date, the preparation of assessment reports has cost approximately \$1.8 million and is expected to cost a total of approximately \$4.5 to \$5 million to complete the first assessment reports of all our fisheries. Approvals can be granted for up to three or five years and must be fully reviewed and assessed for future approvals. AFMA and industry will incur additional costs to undertake those reviews in future years.

Under the government's cost recovery policy, Commonwealth fisheries are managed on a full cost recovery basis. This means that the commercial fishing industry pays for costs directly related to fishing activity while the government pays for activities that may benefit the broader community as well as industry. Many of the environmental assessment costs are considered to be fully attributable to industry.

Such costs are recovered from industry through management levies administered by AFMA.

It is increasingly difficult for the commercial fishing industry to continue absorbing these costs without a significant restructure as more and more demands, both operational and financial, are placed upon them. There is also considerable inequity for Commonwealth commercial fishing operators as other users of the resource such as recreational fishers, charter operators, and tourism, environmental and community groups do not make contributions despite their interests and impacts. The impacts of other sectors such as petroleum and shipping on fisheries resources should also be taken into account.

Implementation of recommendations from the Minister for the Environment and Heritage arising from the assessment and approvals process will also result in a significant increase in costs for both AFMA and the commercial fishing industry. These increases will not only apply to new initiatives, but will also result from ongoing reporting requirements.

Uncertainty over whether long term approvals for a fishery will be granted under the EPBC Act and the conditions that will be imposed is also directly affecting other sectors of the fishing industry and their investment decisions. In particular seafood exporters are most directly affected by the requirement that all fisheries that export product must be approved (Part 13A of the EPBC Act). It would be fair to assume that finance providers and regional communities are also affected by this uncertainty. The Australian Seafood Industry Council may have further views on this issue.

It is also notable, for the competitiveness of Australia's fishing industry, that the EPBC Act is silent on the sustainable production of seafood that is imported into Australia. In 2001-02, Australia exported fish and fish products worth \$2.1 billion and imported \$1.19 billion of fish and fish products for local consumption.

Lack of Economic and Social Impact Assessment

In deciding whether or not to approve individual actions referred under the EPBC Act, the Minister must consider economic and social matters (s136). However, the Department of Environment and Heritage has informed AFMA that these criteria do not apply to the strategic assessment of fisheries and as such the Minister only considers ecological impacts.

However, it is clear that the current approach in implementing the EPBC Act, involving rapid and substantial change and cost, is having a significant social and economic impact on the commercial fishing industry. Should this approach continue without, for example, consideration of all ESD aspects, industry restructuring will be needed to comply with requirements from EPBC Act-based assessments within short time frames with flow on impacts on associated communities. Many parts of the fishing industry are currently under immense pressure to reduce effort on key target species. Expectations that there can be rapid change across the full spectrum of their operations are compounding the pressure and are unrealistic.

Potential for Perverse Environmental Outcomes

The establishment of marine protected areas (MPAs) under Commonwealth and State legislation may have significant and unintended impacts on the commercial fishing industry. For example, the establishment of MPAs may result in the loss of important fishing grounds, resulting in an increase in fishing pressure on areas within the fishery but outside the MPAs.

It is important that appropriate mechanisms, such as consultation with all stakeholders, be built into the process to manage development of environmental actions. There may also be a need to address impacts, such as displaced fishing effort.

Overlap and Duplication

As noted above, the objectives of the *Fisheries Management Act 1991* are largely consistent with the EPBC. Together with AFMA's increasing emphasis on ecosystem based fisheries management, we have already been, and will continue to, aim to ensure the impacts of fishing on the environment are sustainable, economically efficient and a viable fishing industry exists into the future.

Discussions with state fisheries management agencies suggest that there is overlap between Commonwealth and State biodiversity regulations. EPBC requirements for assessment and approval for all domestic fisheries that export product are also apparently mirroring State efforts to manage their fisheries sustainably. You may wish to discuss these issues with state fisheries and environmental departments.

If you would like to discuss these issues further, key AFMA staff are available to meet with you.

Yours sincerely

Wendy Craik
Chair