Position statement on Marine Seismic Survey Proponent engagement with the Commonwealth Shark and Trawl fisheries in South-East Australia

30 March 2023

Version 1_0 Foundation Policy

1. INTRODUCTION

This statement is on behalf of the two industry associations representing the Commonwealth Trawl Sector and Commonwealth Gillnet Hook and Trap (GHaT) fisheries. No other regional associations nor Seafood Industry Victoria have had the opportunity to consider this statement.

The commercial fishing industry in the South-East acknowledges the contribution made by fossil fuels in the production of seafood and the broader economy.

This position statement does not propose a new way forward, instead it draws on the best (and worst) experiences between commercial fishing and marine seismic survey (MSS) Proponents over the last 15 years. The document proposes that MSS Proponents shape their consultation within six themes which this document explains in practical detail. The document endeavours to avoid motherhood statements.

We are open to working with the MSS industry to improve behaviours and systems in the future and provide some document control on the title page with this document being the founding version.

In the first instance the fishing industry wishes to be a good neighbour and to agree behaviours and systems that reduce mutual impact and risk.

However, fishing business have worked in the south-east for more than 100 years. They invested in Government issued fishing property rights in good faith in the belief that these would allow access to fishing grounds and to sustainable levels of catch. The industry pays ongoing significant levies to the Commonwealth Government for these rights. The fishing industry wants to have these rights respected and to therefore be compensated where impacts and access to fishing grounds cannot be mitigated. It is possible that a large MSS could economically collapse an entire fishery; this would have occurred in 2019 had CGG not been forced to pay compensation.

MSS Proponents who refuse to accept that seismic survey impacts on fishing are real will find that fishers disengage - they then face the prospect of arriving in their acquisition area to find fishing gear and fishing vessels. However, if MSS Proponents act in good faith the South-East fishing industry and companies like Beach Energy, Schlumberger and Conoco Phillips have shown that respectful and even pleasant co-existence is possible.

2. SUMMARY OF POSITON

Six steps to effective consultation and planning of MSSs are proposed:

1. MSS Proponents are encouraged to complete a data project and then to use this to guide their consultation. (SETFIA's involvement is not critical but the Association can complete this work under contract and clients report finding it invaluable.)

2. The MSS Proponent should then focus their engagement on the fisheries actually working in or around their area of interest and not on unaffected stakeholders whose statements suit existing plans.

3. Industry associations are not funded to assist MSS Proponents pursue their commercial aims. SSIA and SETFIA can only assist if Proponents agree to cover reasonable costs.

4. The industry asks that MSS Proponents acknowledge that the potential for impacts on fishing is real. And to then try to adjust the MSS's footprint or timing to reduce impacts. This paper does not enter into the merits of research into the impacts (or not) of MSSs on the marine environment and fishing but notes the 2019 FRDC research into the impacts of the CGG's MSS on the south-east fishery that reduced catch rates by ≈80-99%.

5. Where mitigation is not possible and the fishing industry must more elsewhere and its catches decline, then compensation must be paid. It must be equivalent to the revenue that would have reasonably been achieved fishing normal grounds. Compensation must also include that for additional operational and lost opportunity costs incurred if vessels were forced to steam further than normal fishing grounds.

6. SETFIA offers an SMS system through which fishers in different regions can be contacted. This service can provide prior notice of MSSs and then issue updates as the MSS progresses. SETFIA charges a small fee for SMSs sent though this system.

After setting down the purpose and aims of this statement, and providing some background on the south-east industry, this statement then fully explains the six points above in sections 4.1 to 4.6.

3. PURPOSE & AIMS

This policy's intention is to propose an engagement methodology through which MSS companies seeking to conduct MSSs within the GHaT and CTS fisheries (in waters adjacent to South Australia, Tasmania, Victoria and to Barrenjoey Point in NSW) can better engage with these two fisheries.

This policy aims to:

1. Assist MSS acquisition companies work with the commercial fishing industry to reduce mutual risk and impact.

2. Have the fishing industry's existing marine access rights recognised through MSS Proponents taking reasonable steps to mitigate impacts and where this is not possible through the payment of compensation.

1.1 SETFIA & SSIA

This position statement is from two industry associations representing two fisheries in the area described earlier. References to "the commercial fishing industry" are to these two groups but the reality is that there are several other valid representative bodies. Combined, the Commonwealth Government-managed shark and trawl fisheries catch most of the fish taken by wildcatch marine fisheries in the area described above (see Figure 1). Both fisheries are managed by the Commonwealth Government

1. The South East Trawl Fishing Industry Association (SETFIA) representing the Commonwealth Trawl Fishery; and,
2. The Southern Shark Industry Alliance (SSIA) representing the Gillnet, Hook, and Trap Fishery.

These associations have no formal linkages, are incorporated separately with each operating their own boards, constitutions, strategic plans and memberships. The strategic plan of both organisations is *fishing-centric* with lower order goals focused on catch efficiency, the recovery of rebuilding stocks, good data and science that sets sustainable catch limits, cost-recovered Government levies, mitigating interactions with protected species, by-catch reduction and access to fishing grounds.

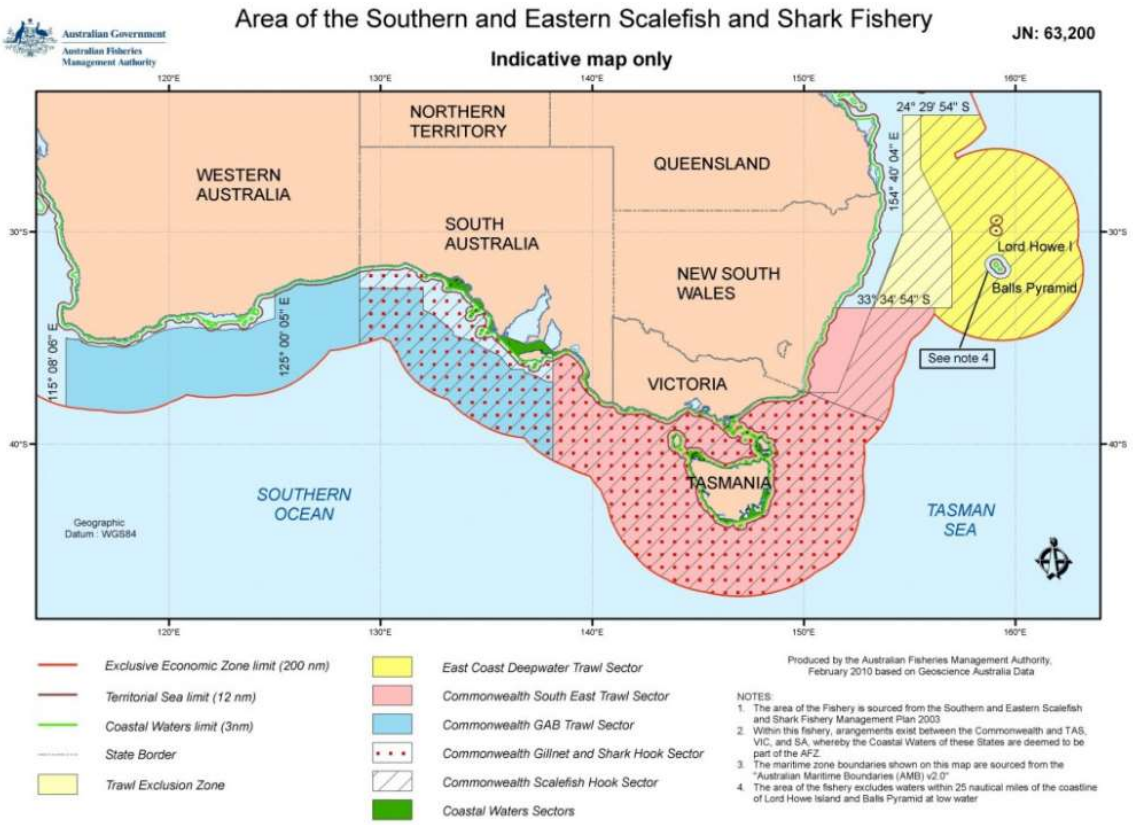

Figure 1 Area of the Commonwealth Government managed Southern Scalefish and Shark Fishery (SESSF)

The South East Trawl Fishing Industry Association (SETFIA) is a not-for-profit entity representing the interests of trawl fishers, quota owners, wholesalers, and others with a stakeholding in the Commonwealth Trawl Sector (CTS). membership. More than 85% of the Commonwealth Trawl Fishery's quota owners and fishers are SETFIA members. The fishery uses two types of trawling to target fish stocks including tiger flathead, school whiting, pink ling and orange roughy operating in the area shaded pink in Figure 1.

The Southern Shark Industry Alliance (SSIA) is similar but represents stakeholders with an interest in the Gillnet, Hook and Trap (GHaT) fishery. The fishery catches the gummy shark, also known as flake, the most popular *fish and chips* species with the Australian consumer. The fishery uses gillnets and to a lesser extent longlines to target gummy sharks in the area indicated in red dots in Figure 1.

The contact for this policy is Simon Boag who at the time of writing is engaged by both associations:

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2 BACKGROUND

2.1 Existing rights in the marine space

In these two commercial fisheries rights exist in two forms. Both rights are traded within the industry and have a value set by the market.

1. The first commercial right is the **Access Right** which allows a fisher to access fishing grounds. In the shark and trawl fisheries this is called a Vessel Permit Statutory Fishing Right.
2. The second commercial right is the right to take at set portion of the commercial sustainable catch for sale. In the Commonwealth fishery it is known as a **Quota SFR** (or "quota"). It allows fishers to catch that volume in the most profitable way possible, providing fishing methods are environmentally acceptable.

   Although not without significant issues and certainly not suitable for all fisheries, quota management is generally viewed as best-practice contemporary management for larger fisheries because it allows management to limit catches to sustainable limits and/or to achieve economic goals.

   Quota is sometimes owned by active fishers but is also owned by entities that do not fish. In this case fishers and quota owners reach a commercial agreement where the quota is leased to the fisher, enabling them to catch a share of the sustainable catch in a year.

2.2 The drivers of fishing right value

Fishing right values are determined by many factors (some of which have interwoven relationships) including but not limited to:

a. Revenue; market price of fish, ease of catch, fish demand, variability of demand;

b. The cost to catch; distance from port to fishing grounds, **availability of fishing grounds**, fishing method, degree of stock aggregation, fish abundance;

c. Profits (a – b);

d. Biological risk; the likelihood of variation in the sustainable catch that can be taken;

e. Science; the accuracy of the sustainable catch that can be taken; and,

f. Environmental issues; social licence and the emergence of 3rd party sustainability accreditations.

The total value of access rights and quota rights in the CTS and GHaT fisheries is approximately $450m. Thus, any reduction in the value of these rights is a significant impairment to the balance sheets of south-eastern fishing companies.

2.3 Government cost recovery occurs against these property rights

The cost to manage the GHaT and CTS fisheries is largely cost-recovered from the holders of these two commercial rights (Table 1). Management fees are largely fixed in nature and mostly not proportional to the number of fishing vessels or amount of fishing occurring. Therefore, fees will not reduce if a portion of these commercial rights are transferred (by way of exclusion zones or lowered

catches) to MSS acquisition companies. Rather, for the reasons described in section 2.4 below the value of commercial fishing rights will decline following this transfer even if the exclusion and impacts are relatively short-term.

Table 1 Levies cost-recovered via charges on fishing property rights

Fishery	Approximate annual Total Levy	Approximate annual fee per fishing vessel	Levies as % of annual catch revenue
Commonwealth Trawl Sector	$2.9m	$51,000	4%
Gillnet, Hook, and Trap Fishery	$2.5m	$36,000	7%
TOTAL BOTH FISHERIES	**$5.4m**	**$43,000**	**5%**

2.4 CASE STUDY: loss of grounds reduces fishing right asset values

Perhaps the clearest example of how reduced access to fishing grounds negatively impacted the value of the commercial fishing right occurred in the Commonwealth managed GHaT fishery.

Following a number of interactions between gillnet vessels and endangered Australian sea lions, a management decision[1] was made around 2010/11 to implement a range of area closures totalling 18,500km^2 (a size not dissimilar to some MSSs that have been undertaken in the south-east). This closure prevented gillnets from being set in the areas of key sea lion habitat and in close proximity to breeding colonies (green shaded area in Figure 2).

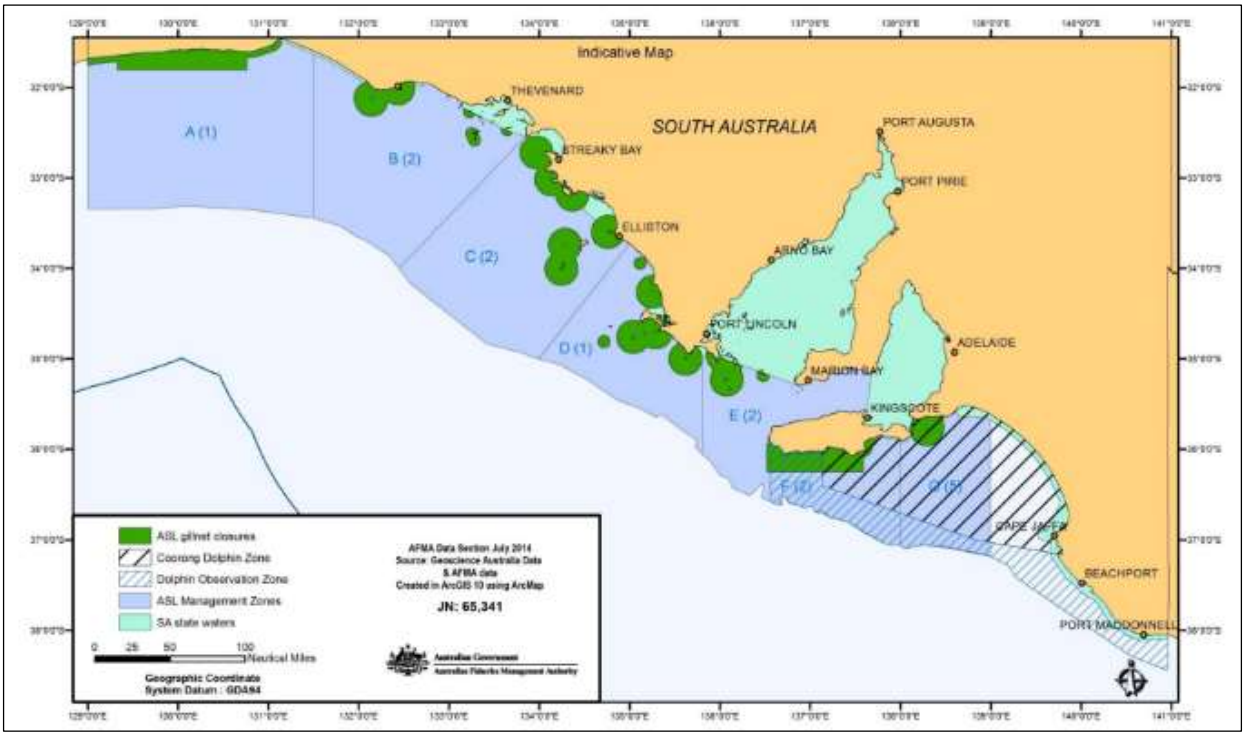

Figure 2 Gillnet closures for the protection on marine mammals in South Australia – Australian sea lion closures shown in green.

[1] Page 20 https://www.afma.gov.au/sites/default/files/uploads/2014/03/Australian-Sea-Lion-Management-Strategy-2015-v2.0-FINAL.pdf

When grounds were closed, gummy shark became more difficult to catch and catch costs increased. Vessels deployed into other fisheries and there were less vessels targeting gummy shark. Vessels had a lower willingness to pay for quota and there was lowered demand so therefore the lease price for quota dropped.

As a result, gummy shark quota capital value fell by one quarter from ~$40,000/tonne to ~$25,000/tonne. Based on the size of the quota this represented a total capital loss (asset impairment) of ~$25m (see Figure 3). The same chart also shows that this value drop occurred even through the retail price of gummy shark continued to climb.

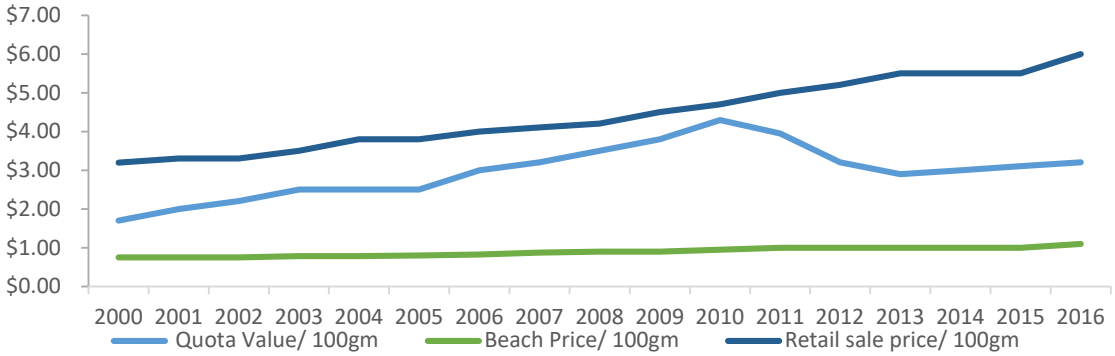

Figure 3 Gummy shark quota value, beach rice and retail price – all per 100g.

This example shows how and why the value of fishing rights in a fishery are likely to be negatively impacted by any transfer of the fishing right (in the form of temporary commercial fishing exclusion or reduced catches) to MSS companies.

3 MSS & CUMULATIVE IMPACTS ON THE FISHING INDUSTRY

There is a significant body of scientific evidence suggesting that MSSs have negative impacts on the marine environment (zooplankton, scallops, rock lobster) and it follows that these negative impacts flow to the fishing industry. However, this paper also acknowledges that a 2021 paper found no MSS impacts on red emperor in north-western Australia.

We ask that all Proponents read and consider a 2020 FRDC funded before-after-control-impact study undertaken off Lakes Entrance in the trawl fishery during and after CGG's 2019 MSS. This BACI study investigated two main trawl-caught fish stocks finding that immediately after the MSS that flathead catch rates (catch per fishing operation) dropped by ≈80% with school whiting catch rates declining by a massive 99%. The study is undeniable. Catch rates took some time to return to normal.

The fishing industry, and the trawl sector in particular, is sensitive to displacement from fishing grounds given that 39% of the trawl fishery is closed for purposes of fishery management (these closures increases May 1, 2023) and 9% by the fishery's 388,000km^2 network of marine parks[2]. Figure 4 shows areas closed to trawling (marine parks and fishery closures) in red[3] and areas partly closed to some forms of trawling (by fishery management closures that only affect some forms of trawling) in orange. Given some overlap of marine parks and fishery closures this means that 44% of the trawl fishery is formally closed. When unproductive grounds or grounds that are too rough to fish are added the CSIRO found that generally only the same 6% of the seafloor (between 3 miles and 1,000m deep) is trawled each year.

[2] In March 2023 the Dept of the Environment opened consultation on the 17-year-old SE Marine Park Network

[3] Includes trawl closures that start May 1, 2023 and the Gippsland renewable energy zone which will not be closed to trawling until offshore marine windfarms are constructed.

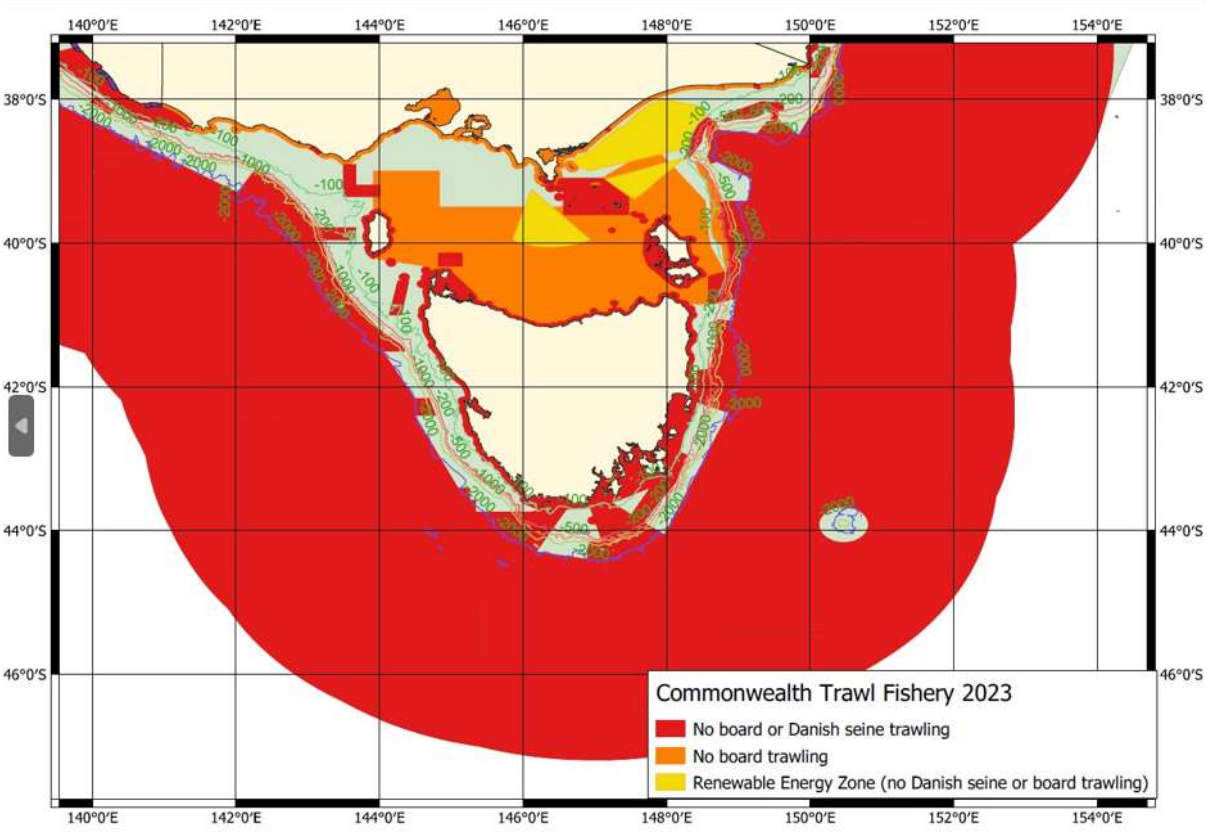

Figure 4 Trawl Grounds (closures)

Where fishing patterns and seismic surveys overlap in time and space, and fishing vessels are forced to fish elsewhere or fish in areas recently surveyed may have lower catch rates, thereby facing higher operating costs and lowered profitability. If these impacts last more than the short-term, then property right values are impacted for reasons explained in section 2.4.

The fishing industry is facing cumulative space pressures from offshore marine windfarms, offshore aquaculture, the deployment of recreational fishing FADs, various pipelines, new wellheads, the decommission and abandonment of existing oil/gas infrastructure, electricity transmission and even carbon sequestration. Not only do these threaten fishing grounds, profitability, and the value of rights, they also consume large amounts of industry association time resources.

There is potential for longer-term MSS secondary impacts on fish recruitment, ecosystems and habitat but this position statement does not attempt to take these into consideration at this time.

4 SIX PILLARS OF BEST PRACTICE ENGAGEMENT

4.1 The MSS Proponent must understand the fisheries impacted

In the first instance the Proponent should work to understand the various forms of fishing (fisheries) that are present in their area of interest. This is not easy given the structural divisions running through the fishing industry at a State/Commonwealth level and also the division of management and rights within each jurisdiction into smaller fisheries or sectors.

SETFIA resourced itself more than 10 years ago to assist shared marine space Proponents. Over the last decade SETFIA has completed 35 major data projects for companies from many sectors: oil/gas, MSS, windfarm, carbon sequestration, salmon farming, FADs[4] and other shared marine space Proponents understand the fishing industry.

SETFIA's methodology is to place data requests on the relevant fishery managers and then write code to ensure that each jurisdiction's confidentiality rules governing the release of historical fishing data are not breached. SETFIA partners with Fishwell Consulting to undertake this work and has become expert in knowing how to apply for data that passes these confidentiality rules but is still meaningful in terms of understanding the fisheries present.

A typical data project will provide to the Proponent the following insights about their area of interest:

- The names and industry associations (where they exist) for all fisheries permitted to work in the area of interest,
- The catch volume and species caught by fishery (and which fisheries do not have historical catch),
- The number of fishing operations completed by each fishery,
- The number of vessels in each fishery,
- The number of vessels that have submitted records in each fishery,
- An assimilated estimate of the catch impact on State and Commonwealth fisheries, sometimes using effort heat maps,
- General information about each fishery,
- A metric explaining each fishery's reliance on the area,
- The key metric of the potential impact per 100km^2 of proposed MSS (a universal measure across shared marine space industries)

MSS Proponents are strongly advised to contact the relevant regional industry associations (like SETFIA, SSIA but also others with relevance) and work with them to reduce impacts and risk. SETFIA and SSIA only speak on behalf of the two fisheries they represent and would never engage on behalf of other fisheries.

South Australian, Victorian, Tasmanian and Australian Government fishery management jurisdictions have improved their systems over time, but a data project can still take 2-3 months to supply a draft report and MSS Proponents should plan for this. SETFIA can supply a commercial flyer and fee proposal on request.

[4] Fish aggregation devices are deployed by State Governments to increase recreational fishing opportunities.

There is no requirement to use SETFIA to undertake this work and Proponents may wish to use other consultants or undertake this work themselves. We note however that it is specialised work and also that SETFIA is not-for-profit (does not distribute profits to members). A document titled, 'SETFIA Proposal for Oil and Gas Companies May 2022' sets out how these projects operate.

4.2 Consultation should be proportional to stakeholders' potential impacts

After developing an understanding of the fishing industry in the Proponent's area of interest the Proponent should give weight to the representative organisations for the fisheries identified proportional to their potential impact.

The fishing industry will react negatively if precedence is for example given to holiday house owners hundreds of kms away while the views of displaced commercial fishing operators are ignored. *Consultation shopping* (finding a response that suits existing plans) will not be tolerated.

4.3 Industry Associations are not funded to assist MSS Proponents' commercial pursuits

SETFIA and SSIA operate their own plans with members paying voluntary fees to fund the work. These organisations will charge $180+GST per hour (shared across both) [additional to an optional data project] to work with MSS Proponents to achieve the aims set down on page 4 and in turn assist the Proponent to meet the requirements of Acts relevant to their commercial plans.

Oil and gas companies have been engaging SETFIA for more than 10 years and we believe find this valuable.

Given our experiences with the procurement systems of international purchasing offices this fee will be charged for time spent on consultation, procurement onboarding and on debt collection. We note that SSIA and SETFIA are small not-for-profit entities.

4.4 The MSS Proponent should where possible make reasonable changes to MSS footprints to reduce impacts

Because only small parts of the south-east fishery are ever fished our experience has been that relatively small changes to MSS footprints can significantly reduce the impact on fishing. The modification of TGS' Otway Basin MSS footprint is an example.

SSIA and SETFIA understand that MSS vessel assets move internationally and are in demand by multiple MSS companies when in Australia making it difficult to change timing.

4.5 Where impacts cannot be fully mitigated then compensation must be paid

This policy proposes that where impacts cannot be fully mitigated that because MSS impacts on the fishing industry are sometimes real that the MSS Proponent pay compensation that considers:

- In the case of fishing vessels being forced to move elsewhere or to fish in areas recently surveyed where catch rates decline: the difference between catch revenue that would have been taken and that achieved (in the new area)
- In the case of fishing vessels that need to move further than would normally have been the case the increase operational cost and time losses incurred (not just fuel)

- Assistance for fishers with the cost of administering claims.
- Simplicity.
- Inclusion of fishers who do not have a long catch history in the fishery.
- Terms of trade (fishers generally receive payment for catch within 14 days of landing)
- Independent right of review
- Transparency and consistency of metrics around the sum of payments made, time to pay, proportion paid etc…

The policy should not force fishers to stay in area where a MSS is being undertaken in order to qualify for compensation.

This policy notes the simplicity and key principles of Beach Energy's Fair Ocean Access.

4.6 Use of SETFIA's SMS system is encouraged

Over the last decade SETFIA has been able to develop SMS contact lists in different geographical areas across the fishery (the boundaries of the fishery described in page-4). Contacts on this list are from many fisheries and not limited to the trawl and shark fisheries.

Using an online SMS system SETFIA can send SMSs from "SETFIA" to fishing vessels, fishing vessel managers, cooperatives, and skippers. The benefit being that the SMS is a "push" as opposed to the Notice to Mariners (required to be "pulled" by fishers) which as a general rule fishers do not monitor nor read. Skippers in particular generally retain SETFIA messages on their phones so if then encounter a work boat can scroll back through SMSs to understand what it might be.

Vessels have become very used to the system and recent examples are shown below.

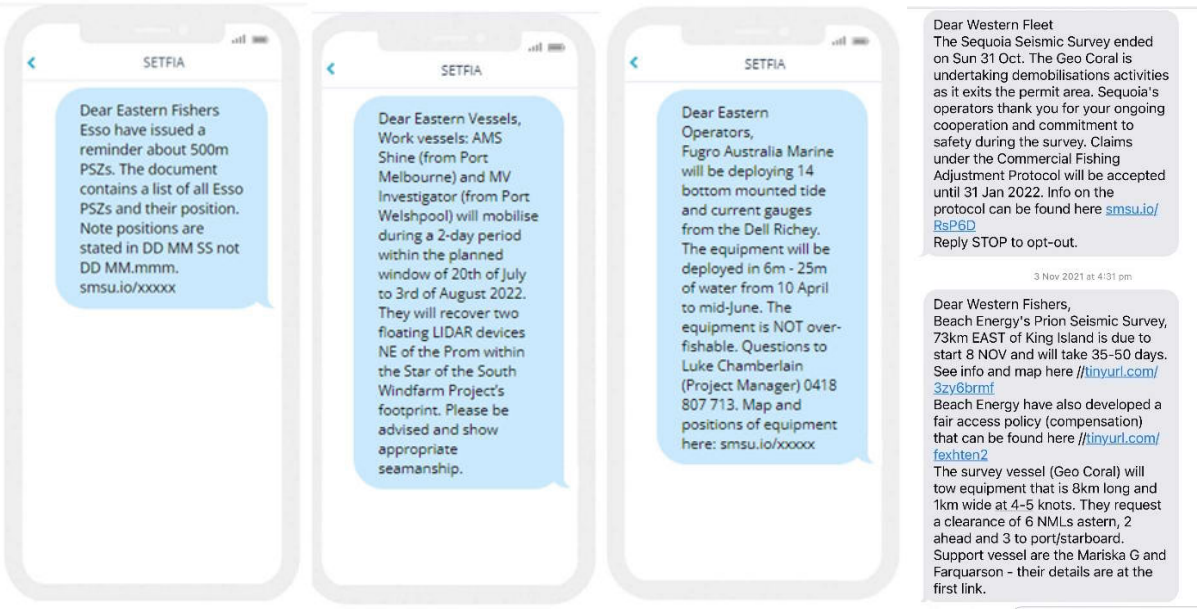

Figure 5 recent examples of SMS's sent to the eastern oil and gas list.

This policy proposes that an SMS be sent to a regional list prior to an MSS at say; -6, -3, -2,- 1 months, then -2 and -1 week, then the day before the MSS starts, then as plans evolve perhaps every few days with a thank you SMS at the end of the MSS campaign. Prior notice allows fishers to be elsewhere, or to undertake maintenance.

During the CGG MSS more than 100 “look-ahead” SMSs were sent in an attempt to let the fishing fleet know where the acquisition vessel was, and was planning to be, over the coming days. These were generally successful and likely reduced impacts because they allowed fishermen to plan to be elsewhere.

The worse example of communication was Geoscience Australia’s failure to inform the Lakes Entrance fleet that they had commenced their MSS. GA arrived in their acquisition area to find eight trawlers some of whom refused to depart. GA refuse to compensate fishers because in their view they should have seen that support workboats had departed port to start the MSS.

A good SMS is short, at the appropriate level of detail and contains; a greeting, the company making the announcement, details of the work being undertaken, contact details if applicable, what this means to fishers and a clear statement of what the Proponent requests from fishers.

Each MSS should have a simple name (good examples include Sequoia and Prion). Given that MSSs often occur using the same acquisition and support vessels in immediately time succession it is helpful to explain where the MSS is occurring (relative to a known thing such as an Island or platform) and even to differentiate between individual MSSs (Figure 6).

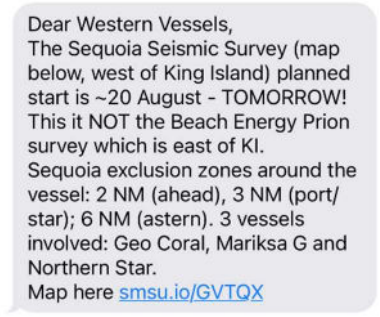

Figure 6 Example of SMS trying to differentiate between MSSs occurring to the east and west of King Island.

It is possible within the SETFIA SMS system to add short URL links to a website with maps or back to the SETFA Facebook page. MMSs are also possible. Cooper Energy recently used the service to send a message linking back to cloud stored shapefiles that could be easily downloaded into plotters (navigational software on laptops) on fishing vessels.

Given the need to maintain the contact list and the variable charge incurred for each SMS SETFIA charges $300+GST per SMS (an SMS being to an entire geographical list of recipients, say 50-150 recipients). The entire cost of a large campaign might be in the order of $3,200+GST.

SETFIA operates out of hours and can send SMSs at short notice but must be clear that it will not chase Proponents for updates about their projects.

For a time NOPSEMA insisted that MSS Proponents send letters to all rights holders listed in publicly available Australian Government databases. However, many (or most) recipients were one or more of: just the holder of the right (leasing it to a fisher), entities and not individuals, and/or small stakeholders and therefore not active in the fishery or out fishing.

SETFIA’s communications are targeted, well received and considered by fishermen given their author.