22 April 2016

Troy Podbury
Inquiry Manager
Productivity Commission
GPO Box 1428 Canberra ACT 2601

Dear Mr Podbury,

**RE: Inquiry into regulation of the Australian Marine Fisheries and Aquaculture sectors**

Thank you for the opportunity to speak with the Commission on 6 April 2016. I subsequently spoke with Commissioner Chris Holder a few days later and provided additional detail. The purpose of this document is to provide a public record of the points and proposals made by the Association during these discussions.

By way of background the South East Trawl Fishing Industry Association (SETFIA) is an incorporated not-for-profit company that through voluntary membership represents the interests of quota owners, fishermen and wholesalers/retailers in the Commonwealth Trawl Sector (CTS). The sector is part of the larger Southern and Eastern Shark and Scalefish Fishery managed by the Commonwealth. Main catch species include tiger flathead, blue grenadier, pink ling, silver warehou and eastern school whiting. The CTS's 45 vessels contribute to port revenues of around $45m and is the major supplier of fresh fish to the Melbourne and Sydney fish markets. The fishery runs from Barrenjoey Point, north of Sydney, through Southern NSW, through Victoria and Tasmania to Cape Jervis in South Australia. It is therefore ideally situated to supply fresh, high quality, locally caught fish into Australia's two largest cities. Demand for seafood in Australia is growing.

SETFIA's noble purpose is that, "*Sustainable practices protect our future*" and we are proud of the work the Association and the Australian Fisheries Management Authority (AFMA) has done that has contributed to the generally excellent, and improving, status of its fish stocks. The most recent Australian Bureau of Agricultural and Resource Economics and Sciences (ABARES) Fishery Status Reports 2015 explains that the CTS has no stocks subject to overfishing and also has declining uncertainty in the biomass status of stocks. These are facts worth being proud of.

The AFMA partnership as well as work with other institutions like the CSIRO and the Australian Antarctic Division, has reduced seabird interactions with trawlers by 75 per cent and new mitigation devices are being considered that are likely to soon increase these gains to greater than 90 per cent reductions.

A recent study[1] by the CSIRO found that only six per cent of the South-East Australian seafloor is currently trawled annually because trawling is aggregated into a small area. Invertebrates (animals without backbones forming habitats on the seafloor) are still at 82-94 per cent of their un-trawled abundance due to licence buybacks, fishery closures and marine parks. The fishery lies within the planet's largest deep water network of marine parks with 13 parks covering 388,000 km$^2$. One hundred years of the South-east area providing healthy seafood in relation to the loss of 6-18 per cent of the South-east region's invertebrate abundance contrasts favourably

[1] http://www.setfia.org.au/seabed-impacts-of-trawling/

to the loss of 40 per cent of Australia's forests and 50 per cent of its wetlands. Furthermore, the annual trawl fishing of six per cent of the South-east seafloor compares very favourably with the farming of 26 per cent of the Australian landmass.

An ABARES report titled, "*Australian fisheries economic indicators report 2014 Financial and economic performance of the Southern and Eastern Scalefish and Shark Fishery*" recently found that a measure of profitability called *Net Economic Return* (NER), in the CTS has fallen from a peak of $7.3 million in 2010–11, to $4.2 million in 2012–13 and is projected to fall to $1.4 million in 2013–14 due to lower revenues driven by catches. Landed catches from the CTS have moved from a peak of 30,000 tonnes to 13,000 tonnes currently.

The declines in total catch do not seem to be driven by the size of fish stocks. In fact, stock assessments show that the opposite is true with total allowable catches (TACs) in the CTS increasing on average by four per cent over the last five years.

Therefore, much of our discussion on 6 April 2016 scrutinized why in a fishery with:

- increasingly healthy fish stocks,
- that is ideally positioned to land high quality locally caught fish to Melbourne and Sydney,
- with a limited amount of vessels, and
- strong environmental credentials,

…is experiencing no investment, declining fishing effort, is currently 52 per cent under-caught and becoming more so, and has declining profitability. We note that something in the order of $30 million worth of a highly sustainable blue grenadier stock is annually uncaught because it is not profitable to do so.

It appears that this trend is being driven by a number of factors which (in no particular order of priority) can be summarised to the following:

1) The uncertainty of management arrangements and management costs.
2) Uncertain political and social support contributing to an increasing '*sovereign risk*[2]*'*.
3) The substitution of Australian fish by imported and unrelated species claiming to be Australian fish e.g. Argentinian scorpionfish being marketed here as 'flathead',
4) Complexities of agreements between the States, Territories and the Commonwealth fisheries management agencies that create inefficiencies and result in the discarding of commercially valuable dead fish

Many of these explanations relate directly to the scope of this Productivity Commission Review and this submission will now examine them in detail.

### 1) The uncertainty of management arrangements and management costs

*The Fisheries Management Act (1991)* (FM Act) and the *Environment Protection and Biodiversity Conservation Act (1999)* (EPBC Act) mean that the Commonwealth industry is heavily, and expensively, managed. SETFIA's view is that there is a clear benefit in managing marine <u>non-fish</u> species under the EPBC Act but that the management of fish stocks under the EPBC Act adds duplication, cost and little else.

Over the years, three CTS fish species have fallen to levels that have attracted the least severe EPBC listing status of *conservation dependant*. In all three cases the FM Act had already acted by lowering quotas, closing areas, focusing scientific study and other management actions. The

[2] We define sovereign risk here as the capacity for a government in uncertain economic times to change its stance on certain issues, default on paying debts etc.

EPBC listing process consumed resources from AFMA and industry and significantly slowed their progress on other issues. The duplication of consideration of the same issues by both Acts can be described as double jeopardy.

SETFIA proposes a whole of government approach to developing environmental and management policy to reduce excessive and unnecessary cost burdens and to provide the Commonwealth fisheries with more certainty with regards to future investment in the industry. The administration of the EPBC Act should not be carried out in isolation from the FM Act.

**Recommendation:**

**There is potential to streamline strategic fisheries assessment under Part 10 of the EPBC Act; assessments relating to impacts on protected marine species under Part 13; and assessments for the purpose of export approval under Part 13A by merging into a single assessment. Furthermore, fisheries that are managed under the FM Act and/or have achieved third party accreditation that is equivalent to (or higher than) the requirements of the EPBC Act should not require WTO assessment.**

In general, SETFIA maintains an excellent relationship with the fishery manager AFMA. Over the last few years this relationship has significantly reduced the cost of salaried AFMA staff involved in the day-to-day running of the fishery. The reductions have been achieved by:

- less formal and more frequent communications between AFMA and the Association,
- removing the drivers of cost such as interactions with protected species,
- higher rates of compliance, and
- improved data collection.

There is now an embedded AFMA Industry Liaison Officer within the SETFIA office in Lakes Entrance working on projects that pursue AFMA's legislative objectives and SETFIA's aims. Plans are under development to establish a less formal trawl management committee to have more often and even more effective communication between AFMA and SETFIA. In time this will likely lead to a formalised co-management agreement between SETFIA and AFMA.

In spite of these gains total cost recovered levies have increased in the CTS. We note AFMA has been able to maintain the increases across all Commonwealth managed fisheries at less than CPI. The increases in the CTS are due to the fixed costs of running output managed fisheries (catch records, quota transfers/reporting, computer systems) and of stock assessments. The levied annual cost of running the SESSF (the CTS, gillnet and longline fishery) is approximately $5.0-6.5 million depending on the research and assessment work scheduled in any single year. Costs can be broken roughly into the following categories:

| | |
|---|---|
| Quota system | 20% |
| Fisheries management | 30% |
| Observers | 20% |
| Research and assessment | 30% |

SETFIA believes that the greatest potential savings lie within the quota system and research and assessment cost centres. Effective contestability of both services is critical.

New Zealand has already outsourced the management of their quota system and the contractor *FishServe* has been autonomous from government for 15 years. In that time the cost of service delivery has been reduced by approximately 50 per cent. The services *FishServe* provide include the administration of the quota management system including; issuing permits, registration of vessels, management of the quota register, management of annual catch entitlement (ACE) (quota) and catch returns, balancing catch against ACE, catch effort forms, management and revenue services for levy collection.

**Recommendation:**

**There is an obvious opportunity to outsource these services in Australia. The annual cost of the quota system in the SESSF is approximately $1.2m (approximately $10,000 per vessel) so the potential of savings on offer from the outsourcing of these functions may be in the hundreds of thousands of dollars in this CTS fishery alone.**

There is a recognised relationship between cost, risk and catch in fisheries management. This is best explained through examples; when catches drop, so does risk and therefore so should management cost. If the risk to secondary non-assessed species, or to species like seabirds, declines, so should management cost. However, if catches (or quotas) increase, risk is increased and management costs (assessment cost and other work) should also increase.

This catch-risk-cost framework suggests that declining catches in the CTS mean that risk in the fishery has reduced and that in parallel so has risk and so too should have management costs. A multi-disciplinary team from AFMA, industry and other stakeholders including fishery scientists are working through various research and assessment scenarios with an expectation of significant cost savings (the Strategic, Monitoring, Assessment Review project).

However, in contradiction to this framework both catches and risk have declined in the CTS – but management costs have not. This is in spite of assessments being scheduled less often because the unit costs of assessments have increased. For example, two years ago at industry's urging AFMA tendered the assessment out to external contractors. The outcome was that only a single tender was received, from the incumbent contractor, and that the cost increased by 20 per cent.

The gains of attracting competitive contractors were noted when in 2010 SETFIA independently commissioned its own pink ling assessment (supported by AFMA) from New Zealand at a cost of about one third of the incumbent contractor at the time. It is worth noting that the relevant Resource Assessment Group (RAG) adopted that assessment and AFMA have subsequently engaged this contractor directly.

**Recommendation:**

**It is clear that efforts to find alternate assessment options must be found and the competitiveness of stock assessment costs be improved. SETFIA members have resolved to do this with AFMA but calls on the Productivity Commission to recommend that this be a priority.**

### 2) Uncertain political and social support contributing to an increasing sovereign risk

Security of access to fisheries resources is integral to sustainable fisheries management and crucial in attracting investment. With a rapidly ageing fleet, we are now, more than ever in need of this investment to maintain the fisheries international competitiveness and to grow the commercial seafood industry. A regime of secure fishing property rights supported by sound legislation is essential for industry to achieve environmental and commercial sustainability. Under Commonwealth legislation, fisheries rights are issued in the form of Statutory Fishing Rights (SFRs). SFRs provide long term, secure, tradable rights to fishers that have been accepted by the Government, the Courts, financial institutions and the commercial fishing industry as property rights. SFRs engender more responsible behaviour by fishers necessary for the pursuit of Ecological Sustainable Development (ESD).

However, strong property rights can be undone by political interference.

The previous Commonwealth Government were strong supporters of the Small Pelagic Fishery (SPF) given it operated under the FM and EPBC Acts and issued SFR rights which were traded

in good faith by commercial operators. Advice relating to the SPF from fisheries scientists and management groups was clear; quotas were sustainable and the use of large vessels with at-sea freezing capacity promoted economic efficiency and was unlikely to have significantly negative environmental consequences. This advice was accepted by the AFMA Commission. However, after a period of misinformation spread by well-funded recreational and (some) environmental groups the Environment Minister sought a way to circumvent the application of both Acts. This was found in the form of a two-year review of the fishery and effectively moved the use of a large vessel in the SPF onto the next Government. The review found that all issues could be adequately covered. The fishery operates successfully today, albeit, like all forms of fishing (both recreational and commercial) with some level of protected species interactions.

Another example of the undermining of property rights and confidence is found within State Governments who in particular have a demonstrated history of using small state-run commercial fisheries as political capital.

In 2010, under a Labor State Government, Fisheries Victoria engaged celebrity chef Neil Perry from the *Rockpool Bar and Grill* in Melbourne to narrate a video titled "Sustainable Seafood". This excellent video[3] explained the sustainability, science and cultural importance of the 150-year-old commercial net fishery in Port Phillip Bay as well as demonstrating cooking suggestions for King George Whiting and Calamari. However, by late 2015 the Liberal Party, Labor Party and even the National Party voted in Victorian State Parliament to ban all commercial net fishing in Port Phillip Bay. Perversely only the Greens, opposed the ban.

In fact, Victorian recreational anglers take four times more fish from Port Phillip Bay than the commercial industry that has just been closed. The rate of expansion of Victorian recreational fishing, and the Victorian Government's '*Target 1 Million'* plan means that the total catch in Port Phillip Bay will, within a few years, exceed the commercial and recreational catch currently being taken.

The Victorian Government now has in place a staged closure of this small commercial fishery and plans to sacrifice this commercial catch to gain supposedly increased recreational catch. This has nothing to do with sustainability, nor is the decision based on science. The current Victorian Government in particular has taken an overtly anti-commercial fishing stance and routinely runs advertisements in recreational fishing publications celebrating their forced closure of the 150-year-old Port Phillip Bay commercial fishery.

The above two examples of political flip-flopping in well run fisheries have a significant negative effect on the appetite of investors who may be considering investment anywhere in the fishing industry, not just in particular fisheries. Last year *The Australian* newspaper reported that a survey of 301 major companies, each turning over more than US$1b, found that 97% had experienced issues with the rule of law (sovereign risk) in the past five years. The surveyed companies reported more problems with the rule of law in Australia than anywhere else except China.

Much of the Governmental intervention is caused by the desire to secure the recreational angler vote. There is no doubt that recreational fishermen feel disenfranchised from the complexities of fisheries science and the decision making process and this is evidenced during the debate around the operation of a large vessel in the SPF fishery.

Recreational fishers have a right to a share of the resource. It is important however to note the difference between recreational fishers who are motivated by the experience and the *commercial recreational sector*; including charter operators, recreational journalists/publications and fishing tackle importers and sellers. Commercial recreationalists extract profit from the resource, have more in common with commercial fishermen and their arguments should be considered in this

[3] https://www.youtube.com/watch?v=9SqL_8nDrng

context. Understandably, commercial recreationalists are motivated to increase their profits by increasing the recreational allocation of the resource.

The Association proposes that whenever possible efforts must be made to move the management of fisheries away from the political process of the day and toward science based management. Provision for recreational catch, which is generally small in the CTS and in most other Commonwealth fisheries with some exceptions (such as southern bluefin tuna), is already made within the management of Commonwealth fisheries.

**Recommendation:**

**Formalised resource sharing should occur in State managed fisheries and a portion of the resource allocated to the commercial fishing sector (and sold to the non-fishing consumer) and to recreational fishermen. State agencies must then be steadfast in managing both within their allocations.**

### 3) The substitution of Australian fish by imported and unrelated species claiming to be Australian fish

The CTS is one of Australia's oldest fisheries and has spent more than 100 years growing its brand of Australian fish names, so that it is recognised for taste, quality, provenance and sustainability. Tens of millions of dollars have been invested in science, fisheries management, logistics and infrastructure.

However, it is likely now that, for instance, the majority of fathead sold in Australia is not actually flathead but is instead an unrelated species of scorpionfish from South America. The Australian Fish Naming Standard allows this species to be labelled as 'South American Flathead' and the Association would accept that nomenclature given the fish is somewhat flat in shape and the inclusion of 'South American' distinguishes it from Australian, or *real*, flathead.

However, the importers and retailers of 'South American Flathead' would likely have reduced sales if consumers understood that it was not *real* flathead so do not use the standard name.

The Association has no issue with imported fish and believes it fulfils a price point in the market but it must be clearly labelled to protect the Australian industry's intellectual property and to allow consumers to make an informed choice.

There is an urgent need for mandatory comprehensive labelling to ensure the consumer is not misled. Two Australian Parliament Inquiries have recommended removal of the current exemption regarding country of origin labelling applied to cooked or pre-prepared seafood sold by food-service under standard 1.2.11 of the ANZ Food Standards Code.

The longer Australia accepts the anomaly in labelling regulation, the longer the seafood sector suffers from a lack of market transparency and Australia's trust of Australian seafood is compromised. The Northern Territory Government introduced regulations in November 2008 to make it a requirement for all venues to identify imported seafood at the point of sale to the consumer. It remains the only jurisdiction in the country to have seafood labelling laws introduced in dining outlets.

**Recommendation:**
**We propose to instate the recommendation from two Parliamentary Inquiries to remove the current exemption regarding Country of Origin Labelling applied to cooked or pre-prepared seafood sold by food-service under Standard 1.2.11 of the ANZ Food Standards Code. Further that the Australian Fish Naming Standard be enshrined in food labelling.**

**4) Complexities of agreements between the States, Territories and the Commonwealth fisheries management agencies that create inefficiencies and result in the discarding of commercially valuable dead fish**

The CTS fishery straddles four state jurisdictions so the issues are geographically widespread and complex. As you know "State" waters generally (but not always) extend to three nautical miles from land. This division has its origins in the historical distance that a cannon ball could be fired and has no relevance to modern Australia. Furthermore, fish do not understand these rules and freely swim between both Commonwealth and State managed waters.

In Victoria some smaller CTS vessels hold endorsements allowing them to fish in state waters while all State vessels can fish past three miles. The split of responsibilities between Victoria and the Commonwealth is achieved by dividing the management of stocks.

In the 100 years leading to 2010 there were no catch limits in place on the CTS catch of snapper. Following a significant increase by a single CTS operator, AFMA imposed a limit on the amount of snapper that all CTS vessels could land. There remains disagreement between AFMA and Victoria about who manages snapper and *trawl caught* snapper. Over the next several years, even though snapper has always been an incidental by-catch in the fishery, this arrangement saw approximately 20-30 tonnes valued at $200,00 to $300,000 of snapper discarded dead. It is important to consider this amount in the context of the 550 tonne Victorian recreational catch and the 120 tonnes Victorian commercial catch. Over the next few years following the introduction of this rule, SETFIA proposed several arrangements, with one trialled successfully and then rejected by Victorian DPI, that tried to recognise the rights of all three sectors (State, Commonwealth and recreational) while avoiding the discarding of commercially valuable dead fish. A sensible discussion was at times difficult given that senior DPI Managers were making public statements to recreational fishermen claiming the credit for stopping Commonwealth commercial catches (which were relatively small anyway).

More than a year ago a solution was reached with AFMA that achieves these aims. This is that CTS vessels fishing in Victorian waters remain constrained to landing no more than 200 kg of snapper. However, if a vessel believes that a catch in excess of this was taken unavoidably it can apply while at sea for an exemption. The exemption is managed by SETFIA under a co-management agreement with AFMA. SETFIA considers an operator's *intent* to catch snapper when granting an exemption, considering factors such as whether other vessels or the catching vessel caught snapper recently in the area and whether the fish caught in a single shot. Satellite monitoring of all CTS vessels aids this process. To remain eligible for this exemption CTS operators must complete a TAFE accredited learning unit that tests their knowledge of the industry code of conduct on snapper. In nearly 18 months of operation only three exemptions have been granted for less than 10 tonnes so catches remain very low. Under the previous arrangement this amount would have been discarded dead and catches were large i.e. we now catch less and less is discarded.

We remind the Commission that this is a complicated solution but does not solve the problem. The problem is the duplication of fisheries management across Australia.

In NSW state managed trawl fisheries extend seawards for 3 miles, the CTS from 3 miles outward to 200 miles and state drop line operations are constrained to an area from the shore out to 80 miles. There are many stocks taken by both sectors notably eastern school whiting, tiger flathead and pink ling. The approximate range of species and NSW catches were provided to Chris Holder verbally.

In 2012 Commonwealth assessments for the eastern stock of pink ling began to decline. In line with the Commonwealth Harvest Strategy Commonwealth quotas were reduced. AFMA and industry have imposed closures, landing limits, commissioned expensive additional science and implemented other complicated management arrangements. The result of all of this work has

been the successful reduction of CTS pink ling catches and avoided an ABARES overfishing listing. However, while all this was occurring NSW state drop line catches (ocean line and trap fishery) continue to increase and in line with the Commonwealth Harvest Strategy these catches are debited to Commonwealth quotas before they are issued to ensure total catches remain sustainable.

The CTS is levied $500,000 to $1.2 million per annum for research. Some of this research supports a 1,500 tonne school whiting Recommended Biological Catch that in 2015/16 had 750 tonnes of NSW catch debited to it to generate a 747 tonne Commonwealth Total Allowable Catch (TAC). A large twin hulled NSW licenced Danish seine vessel has over the last few years reportedly developed a business model catching school whiting in NSW state waters, freezing this at sea and then exporting these whole fish for filleting. During the same period the Lakes Entrance Fishermens' Cooperative installed automated size grading and machine filleting technology for school whiting. The Lakes Entrance Fisherman's Cooperative is concerned that if it successfully develops markets for machine filleted school whiting that this model will be soon adopted by NSW operators with the outcome being that no Commonwealth school whiting TAC may remain to be caught. Potentially, given the history of States closing fisheries and the review process underway, the State operator might feel that they cannot invest and innovate because of the risk of school whiting catches being capped. The relative worth of individual rights aside the Association believes that innovation is most likely to occur, in the presence of and bythose holding strong property rights.

**Recommendation:**

**SETFIA fully supports NSW licenced fishermens' property right to take these species but believes that they should contribute to the management and assessment costs for all stocks and when required, as in the case of pink ling, NSW catches should reduce and increase in line with the stock assessment. NSW must also immediately cap the continued expansion of their fisheries catches.**

In May 2014 The NSW Ministry of Primary Industries, AFMA, a selection of NSW trawl fishermen and SETFIA (through a formal motion) agreed in principle to assimilate the NSW inshore trawl fishery into the Commonwealth trawl sector. The work required to execute this plan includes:

1) NSW agreed that they would engage AFMA sea going observers to collect data on discarded fish to better understand the actual NSW catch. This work is occurring.
2) NSW proposed to commit a full time employee to this process which we believe has only recently occurred.
3) It was proposed that NSW issue an investment warning telling current and potential NSW operators that quota was to be issued based on historical catches - this would stop licence speculation and stop increased fishing in the short term by NSW license holders. This has not occurred.
4) The timeline to develop the proposal was 12 months with full implementation in 2 years. The process has missed these deadlines.

**There are many advantages in AFMA absorbing the NSW trawl fishery:**

- The net effect on total commercial catches is neutral i.e. total commercial catches will increase or decrease. However, because discards will decrease landings will increase.
- Commonwealth quotas will not decrease; NSW landings are already debited to the Commonwealth TAC (RBC) and provided landings are used in the calculation, and not what could have been landed in the absence of limits, there would be no reductions to Commonwealth quotas.
- The increased stability in the management of both fisheries would attract investment which would likely increases catches.
- There is strength in a single and united fishing industry; a single industry can become more professional, show greater stewardship and has the potential to self-promote and increase social licence.
- NSW fishermen gain a stronger property right which is important given their position within a State managed fishery. Their quota could be sold, leased out and/or fished.
- The assimilation process provides an opportunity for the NSW Government to close some grounds to protect habitat and promote recreational fishing opportunities.
- Additional Commonwealth vessels would create economies of scale and reduce cost recovered levies as a % of revenue.

**Recommendation:**

**For these reasons we see Productivity Commission support for AFMA to absorb the NSW inshore trawl fishery in this way.**

Thank you again for meeting with me via teleconference and we look forward to your report and recommendations.

Yours sincerely,

Simon Boag
Executive Officer