



12 March 2021

Committee Secretary  
Senate Rural and Regional Affairs and Transport References Committee  
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Dear Committee Secretary,

**RE: SETFIA submission to SENATE RURAL AND REGIONAL AFFAIRS AND TRANSPORT REFERENCES COMMITTEE: The fisheries quota system**

**This submission is on behalf of the Commonwealth managed South East Trawl Fishery**

This submission is on behalf of the not-for-profit South East Trawl Fishing Industry Association (SETFIA or "The Association") which represents a variety of stakeholders in the South East Trawl Fishery (SETF). SETFIA members hold voluntary memberships with the association with it representing around 80% of quota owners, fishers, and wholesalers. Many members have vertically integrated businesses that span two or more links in the SETF supply chain. We thank the Committee for their interest and for the opportunity to submit.

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**How are Australian fisheries managed?**

Fisheries in Australia are managed by the Commonwealth or the States. All areas below the low tide mark are technically within the Commonwealth's jurisdiction.

The States and Commonwealth have implemented arrangements under the Offshore Constitutional Settlement (OCS) in which they divide management. Generally, the Commonwealth and States operate numerous agreements rather than a single overarching agreement. In some agreements the division is *geographical* while in others State and Commonwealth vessels share geography and fishery management is divided by *fish species or stock*.

Many geographical OCS agreements allow for State fisheries to operate within 3 nautical miles. However, fish species OCS agreements such as those in the south-eastern states of NSW, Victoria and Tasmania allow state licenced vessels to sometimes work well past 3 nautical miles to target different fish stocks.

**Background to the South East Trawl Fishery**

The Commonwealth authority the Australian Fisheries Management Authority (AFMA) manages the Southern and Eastern Scalefish and Shark Fishery (SESSF). The SESSF is a multi-sector, multi-species fishery that covers almost half of the Australian Fishing Zone. The value of its fish based on its price in port price was c\$76m in 2017-18. The fishery's northern boundary starts in Commonwealth waters in central Queensland and runs southward through NSW, Victoria, around Tasmania, and into South Australia, and then westward across Western Australia to about Margaret River in Western Australia.

The South East Trawl Fishery (SETF) is the largest sector (fishing method) within the SESSF. The SETF has port price catch revenue of around \$50m. The SETF is a smaller sub-section (sector) of the SESSF and runs from central NSW, southward through Victoria and Tasmania and then west to Kangaroo Island in South Australia. The SETF is the major supplier of local fresh fish into the Melbourne and Sydney fish markets.

### **SCOPE OF THE INQUIRY:**

**The fisheries quota system and examining whether the current ‘managed microeconomic system’ established around a set of individual transferable quotas results in good fishing practice, with particular reference to:**

**1) Good fishing practice that is ecologically sustainable with an economic dynamic that produces good community outcomes;**

Background:

AFMA’s objectives include cost effective management (including targets), ecologically sustainable development, maximising net economic returns, and accountability to the Australian community. All these objectives have contributed to the move to quota management in many Commonwealth fisheries. We also note the importance of the 2005 Ministerial Direction (No.S234) which instructed AFMA to end over-fishing and move to output controls (quota management) where possible, this became a turning point in the history of the SESSF and many other Commonwealth fisheries.

Quota systems in some form are being adopted across the world’s fisheries because they have been proven to work and in spite of their issues are perceived as being better than alternatives.

In the SESSF the quota management system is the framework that supports a number of other tools that include; a management plan, fishery regulations, fishing vessel permit conditions, a harvest strategy, risk assessments, by-catch and discard plans, rebuilding strategies, protected species management plans, stock assessments, RAG and MAC advice, research plans and approvals under Parts 13 and 13A of the EPBC Act.

Decisions within the current model are made by the AFMA Commission after advice from science (RAG) and management (MAC) groups, AFMA and other stakeholders.

SETFIA generally supports the principle of quota management noting that it is imperfect in many ways:

- a) Quota systems were established in the south-eastern Commonwealth fisheries including the SESSF to reduce catches to sustainable levels. The Association believes that all commercial fishing needs limits. These limits can be on time worked, gear, vessel numbers, vessel capacity or catch quotas. Catch quotas are the *least bad* solution and allow the industry to organise itself to efficiently catch an allowed (sustainable) volume of fish. Many of the other management options impose economic inefficiencies on industry in order to reduce catch to a sustainable level. This creates an arms race; a cycle in which the fishery manager imposes an inefficiency, the industry eventually overcomes the inefficiency, and another is required. Profitability declines and declines. The aim of quota management is to avoid this and rather set an extraction limit on the fishing industry and then allow it to operate efficiently.
- b) Too many stocks entered the SESSF quota system which has resulted in very high management costs and complication. In the shark (GHaT) sector of the SESSF management levies consume 10% of all revenue. High management costs are driven by the need for science and data to be able to set quotas and also because the transactional nature of quota systems are notoriously complicated and expensive to run. In the SETF the majority of quota stocks are not caught. In a mixed stock fishery like the SESSF limits on some targeted stocks cap the catches of other *by-product* stocks.

In recognition of 1)b) the SESSF harvest strategy is moving toward managing stocks as:

- i) *primary* (targeted and economically important to the fishery),
- ii) *by-product* (retained but not economically significant) and,

iii) *by-catch* (discarded fish).

All stocks currently managed under quota will remain as such, but the proposed harvest strategy will reduce costs and complexity by managing by-product and by-catch fish catches differently and is supported by SETFIA.

We note the success of the Great Australian Bight fishery (GAB) where in the early 2000s at the time of quotafication only a few targeted and commercially important stocks entered the quota system with remaining small by-product catches managed by risk assessments. This has proved to be a more appropriate and cost-effective system.

- c) Data handling and transactional technological efficiencies offer significant savings within the SESSF but have not been progressed as they might have because AFMA is understandably focused on other fishery sustainability issues that are perceived as more pressing. SETFIA would support renewed focus on these strategic projects (known as project SMARP) because a prosperous industry (with lower management costs) can and will show greater stewardship and invest in science, data, and other management.
- d) The WAFIC submission explains that quota systems can present management difficulties when considering short-lived species, assessment cost, small fisheries, and a tendency for quota to focus on biological sustainability and not economic objectives. This submission also notes the very successful Northern Prawn Fishery (NPF) which targets a short-lived species (prawns) that are not managed under quota. SETFIA supports WAFIC in concluding that it does not support unconstrained use of quota in all commercial fisheries and notes the success of the MSC accredited NPF and concludes that the management approach selected should best fit the fishery in question.

## **2) How the current quota system affects community fishers;**

## **3) Whether the current system disempowers small fishers and benefits large interest groups;**

### 2 and 3 Combined Summary:

SETFIA supports a system in which there is a healthy and competitive market for quota lease and the catching and purchase of fish. Where there is no *market bargaining power imbalance*, the links within the supply chain will compete with each other for their share of the available profits. Over time the chain will work in a united way to reduce costs and increase the value proposition to the customer, eventually increasing profit to be shared by all.

SETFIA supports the independence and non-political nature of decision making in the current system but believes significant efficiencies are available and that these should be taken up.

### Points:

- a) SETFIA represents stakeholders in the fishery who include active fishers in family businesses, managed funds, private equity, fishermen's co-operatives owned by fishermen, fish markets and wholesalers. Some of these entities own quota, some vessels and some both. All these businesses have worked together through the association for 30+ years to achieve common goals.
- b) It is too late and now impossible to limit quota ownership in the SESSF so that ownership is linked to entities or individuals owning vessels. Doing so at this late stage would introduce significant sovereign risk around investments in the fishing industry (and outside it). In any event 95% of the capital value in the SESSF fishery is in quota so non-operational businesses that only own quota could simply purchase vessels to qualify. It is difficult to understand how historical quota owners could now return the monies paid to them in return for the return of quota...
- c) After a lifetime of hard work at sea many "Generation-1" (Gen-1) fishers (those granted quota shares based on catch history) are reaching an age in life where they elect to sell their quota and enjoy the significant benefits of this sale.
- d) It is very hard for Gen-2 fishers to enter the industry and buy quota. The capital value of a quota package to support the average SESSF trawl vessel is \$4m. However, non-operational quota owners

are dependent on catchers and as such have become the main supporters of young Gen-2 fishers and regularly finance them into vessel ownership in ways that banks will not support.

- e) Quota aggregation in the SESSF has been slow (compared to New Zealand) but is *perceived* to have accelerated over the last 10 years as Gen-1 fishers exit and sell.
- f) Investment in quota is not a *risk-free, get-rich-quick* scheme. There are examples of significant capital gains; for instance, the total capital value of eastern zone orange roughy quota increased from \$1m in 2009 to \$36m in 2020 following 15 years of very tough management that allowed the fishery to rebuild. However, over the same period the total value of silver warehou quota decreased from \$20m to \$5m because environmental conditions reduced the productivity of that stock. The investment decision is complicated, quota buyers must consider:
  - i) the cost to catch,
  - ii) charges on quota (levies),
  - iii) the availability of catchers,
  - iv) the market price for that species (noting recent unexpected events in Chinese markets for crayfish),
  - v) the market lease price for that stock,
  - vi) the biological and environmental risk (including climate change) to the biomass,
  - vii) the risk that this change in biomass [1)f)vi) above] will even be measured by the assessment or that the assessment could incorrectly signal a change (higher or lower) that is not reality,
  - viii) the fickleness of social license and,
  - ix) the fishery's broader environmental impacts that could lead to significant management interventions.
- g) Quota is a significant strategic asset. Unlike most other capital assets, quota has a finite supply and presents the ultimate barrier to the entry of new players (aquaculture notwithstanding, noting that aquaculture now provides >50% of the World's seafood). The entity that controls quota has a strategic advantage in deciding who catches it, as well as to where and to whom it is sold.
- h) Aggregation of quota has seen more strategic longer term decisions made about fisheries as fewer but larger quota holding entities perceive that they have more control over the quota asset and make investments in research, monitoring, data acquisition, and markets.
- i) Aggregation within any supply link to unhealthy proportions risks a *market bargaining power imbalance* occurring between quota owners, fishers, and wholesalers. This risk is higher where a single entity is present in two more of these supply chain links. The Association draws parallels to the commercial relationship between supermarkets and their suppliers and notes the 2020 ACCC investigation into potential supermarket power imbalance. With regard to this investigation Agriculture Minister Littleproud stated in Parliament, "*When you have two supermarkets that have over 60 per cent of the market, that adds some complexity and gives them some bargaining power that could be abused.*"

However, the quota owner is perhaps more incentivised to meet the market and lease quota to vessels (than are vessel operators and wholesalers) because the quota asset cannot be deployed elsewhere, quota only has value if the fish is caught. Wholesalers have the benefit of being able to change to other species (including imports) and catchers can deploy their vessels into other fisheries or even other industries. Nonetheless, an over-representation in any single link is potentially unhealthy.
- j) SESSF catches are relatively small and of low potential value as exports so are unlikely to be of significant interest to overseas buyers (with orange roughy and blue grenadier being possible exceptions). However, the Association notes the concern within the Australian community around foreign ownership of food assets and suggests that transparency could only help ease these

concerns. However, any cost associated with a register of foreign ownership is only of benefit to the Australian community and must be paid for by the taxpayer and not the fishing industry.

- k) Existing Australian foreign investment laws are known as the Foreign Investment Review Board regime (FIRB)<sup>1</sup>. Broadly speaking the FIRB regime traces any foreign interest of 20% or more but the rules are complicated and became \$0 threshold following the outbreak of COVID in late 2020.
- l) The 60% reduction in the SESSF trawl fishery in vessels from 140 to 57 and annual catches from 50,000 to 10-20,000 tonnes was required to remain sustainable and was not a result of the move to quota management. Rather, the quota system was the mechanism used to manage catches at these sustainable limits.
- m) SETFIA does not support any suggestion that fishery management decision making should equitably apportion profits to different links in the supply chain. Fishery management is already highly complex (and therefore expensive) and is a trade-off of competing objectives such as the need for profitability, sustainability, minimising environmental impacts, transparency and cost efficient management. Fishery managers are not well placed or well qualified to consider another aim, this being supply *link* (sections of the chain) profitability in their decision making.
- n) The current SESSF model is that an independent scientific group, the Manager (in this case AFMA) and a management committee provide advice to an independent non-political Commission who take a decision based on the balance of scientific evidence.

#### **4) The enforceability of ecological value on the current system, and the current system's relationship to the health of the fisheries;**

- a) The SESSF fishery is managed to economic targets that are more conservative than those that provide maximum sustainable yield. SETFIA supports this but notes that the entire fishery rather than individual stocks should be managed toward maximum economic yield.

#### **5) Whether the current system results in good fishing practice that is ecologically sustainable and economically dynamic, and produces good community outcomes; and**

- a) The underlying principle and aim of quota management is to avoid the *Tragedy of the Commons*; that is that public ownership of fisheries (the common pool) does not promote stewardship because without a barrier entrants will enter and catch more fish (a race to fish) until they each become unprofitable.

The alternative is the private ownership of property rights which in the case of the SESSF mostly takes the form of individually transferable quota rights. Under this model operators act in their own interests which is to catch as efficiently as possible, minimise management levies by reducing risk and improving environmental performance, and maximise price by giving customers what they want (quality, price, delivery etc). The sum of these efficient operators create a fishery that is profitable overall. Given their ownership stake, quota owners will try to improve the value of the quota asset by improving environmental performance and increasing the accuracy of assessments (better data etc).

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<sup>1</sup> FIRB regime includes the Foreign Acquisitions and Takeovers Act 1975 (Cth) (the FATA); Foreign Acquisitions and Takeovers Regulation 2015 (Cth) (the FATR); and Foreign Acquisitions and Takeovers Fees Imposition Act 2015 (Cth) and the accompanying Foreign Acquisitions and Takeovers Fees Imposition Regulations 2020 (Cth).

## 6) Any other related matters.

### Summary:

Australia's federation has been a barrier to better fisheries management and ways to overcome this should be seized wherever they are available.

Truth in seafood labelling and overcoming State/Commonwealth management issues and uncertainties are more important to SETFIA than perceptions about foreign ownership and issues of potential market bargaining power imbalance.

### Points:

- a) The SESSF and the Australian fishery are *trade-exposed* given 80% of seafood consumed in Australia is imported.
- b) This submission notes that quota owning entities pay capital gains tax on any increase in the value of quota meaning that there *is* benefit to the Australian community.
- c) This trade exposure means the Australian industry is particularly vulnerable to misleading fish labelling standards, particularly for ready to eat seafood. Some imported seafood falsely presents itself as local seafood by falsely using local fish names. Country of origin labelling (CoOL) of ready to eat seafood is required. The Association notes the good job that fresh retailers (including supermarkets) do on seafood labelling.
- d) Australia's commercial fisheries and managed by States and the Commonwealth. Drawing an imaginary line (or lines) on the seafloor that fish do not understand based on the distance a cannonball can be fired adds no value to fisheries management. Rather, it detracts from it because it:
  - i) pits State licenced fishers against those from other states and the Commonwealth system,
  - ii) forces jurisdictions to discard commercial catches because they are not "theirs" and belong to another jurisdiction,
  - iii) means that single fish stocks are managed across two or more jurisdictions with different and often competing harvest strategies and management systems and,
  - iv) reduces community confidence in fisheries management,
  - v) reduces capital value in Commonwealth managed fishery-A where State managed fishery-B's catches are deducted from fishery-A (this is common).

A SESSF example of v) (directly above) occurs between the Commonwealth managed SESSF South East Trawl Fishery and the NSW managed Southern Fish Trawl (NSW SFT). NSW SFT trawl catches are debited to Commonwealth quotas and represent a significant risk to SESSF businesses if they increase because the SESSF business could be left with no fish to catch.

A joint working group (transition panel) proposed that NSW fishers should have their catch history and entitlement recognised by transitioning the NSW SFT fishery into Commonwealth management. Under this proposal NSW operators would have SESSF quota issued to them roughly equivalent to their historical recent catches. Because NSW catches are already debited to Commonwealth quotas this has no or very little impact on Commonwealth operators and the capital value of their quota.

This proposal was first made by the joint working group in 2016 and supported by the Marine Fisheries and Aquaculture Productivity Commission report in 2017 in recommendation 6.3 (p38) which states, "*The New South Wales Southern Fish Trawl Restricted Fishery should be absorbed into the Commonwealth Trawl Sector of the Southern and Eastern Scalefish and Shark Fishery by the end of 2018.*" However, the NSW SFT remains under NSW management and investment in both jurisdictions is held back by the uncertainty of what structural changes might occur.