

Marine Parks

Displaced Commercial Fishing: Policy Framework: South Australian Government, April 2011

The South Australian Government acknowledges that it has a responsibility to provide a policy framework that has regard to the impacts on fishers and fishing dependent communities of decisions to establish marine parks under the Marine Parks Act 2007. This statement provides the framework.

The Australian Government has a long-term policy objective of establishing a system of Marine Protected Areas (MPAs) that protects representative areas of our marine bioregions. This is being done by establishing a national representative system of marine protected areas (NRSMPA), in cooperation with the States and the Northern Territory.

The South Australian Government, as its part of fulfilling this commitment to marine biodiversity conservation and the NRSMPA, enacted the *Marine Parks Act 2007* that established the basis for a network of marine parks in South Australia. The zoning of marine parks in South Australia will increase the proportion of highly protected areas in State waters. This is consistent with the aims and objectives of the NRSMPA.

The South Australian Government is committed to maintaining and enhancing sustainable and profitable commercial fisheries and to maintaining and enhancing a system of secure and tradable fisheries access entitlements to these fisheries. Consistent with this policy approach, Primary Industries and Resources South Australia (PIRSA) and the Fisheries Council of South Australia will continue to be responsible for managing fisheries resources in the State including the preparation, review and amendment of Fisheries Management Plans to ensure sustainable fisheries.

Notwithstanding efforts to minimise impacts on fishing activities of new or re-zoned Marine Parks, there will at times be unavoidable impacts.

This is because the declaration of Marine Parks will in some cases result in a resource reallocation process whereby marine resources are effectively

reallocated from generating a private benefit such as fishing, to a broader public good of biodiversity conservation.

Impacts on fisheries may vary greatly depending on the nature of the constraints within the marine protected areas and the nature of the fishery. For example, a marine park that closes an area of a fishery that harvests migratory or pelagic fish through highly mobile fishing operations will have a different impact to a marine park that closes an area where fishers catch sedentary species.

Restrictions on fishing activities from the declaration, zoning or management of marine parks will be identified and accounted for in the process of developing and zoning Marine Parks. This will be done separately from the restrictions placed on fishing which are implemented by PIRSA as part of normal fisheries management actions, aimed at achieving the objectives of the *Fisheries Management Act 2007*.

Separating these processes will assist to ensure the maintenance of business confidence in the system of fisheries access entitlements.

If the declaration or zoning of a marine park requires the immediate adjustment of a fishery then the Government will make the adjustments at that time, through acquisition mechanisms. PIRSA in association with the Fisheries Council of South Australia will then incorporate necessary revisions to the fisheries management plans and settings to account for those marine parks adjustments (e.g. reduce total allowable catches, restrict fishing days etc).

Each draft Marine Park Management Plan that is issued for public consultation will be accompanied by an impact statement outlining the associated environmental, social and economic impacts (positive and negative).

These impact statements are a requirement of the *Marine Parks Act 2007* and should greatly assist the public consultation process.

i. Zoning

When Marine Parks are declared for biodiversity conservation, the Government is committed to a process that minimizes impacts on existing fishing activities while still maintaining scientific credibility and achieving conservation objectives.

In the first instance, the Department of Environment and Natural Resources (DENR), in consultation with PIRSA, SARDI Aquatic Sciences and the commercial fishing industry, will aim to ensure that marine park zones deliver the desired biodiversity conservation outcomes with no more than a five percent overall economic impact on the commercial fishing industry (methodology set out in 2007 EconSearch report). This will primarily be achieved by minimising displacement of commercial fishing effort wherever possible.

To achieve this will require that PIRSA and SARDI use commercially sensitive data. PIRSA and SARDI will ensure that existing protocols concerning sharing and using commercially sensitive data are maintained.

ii. Redistribution

It is recognised that Marine Park zoning may still cause some displacement of commercial fishing effort that may have impacts on the sustainability of the fish stocks and on fishers.

An assessment of these impacts will be undertaken and will take into account ecological impacts on the fishery and economic impacts on other commercial fishers.

This assessment and advice on redistribution will be done using a process that is expertise-based, independent and transparent. Government is currently considering the membership, terms of reference and process required to deliver this in further detail.

iii. Fishery Adjustment

If no redistribution or only partial redistribution is viable, the Government will pursue the removal of an appropriate amount of effort from the industry. This will be based on the level of removal required to ensure ongoing sustainability of the impacted fishery resources, consistent with the objectives of the *Fisheries Management Act 2007*.

In general, Government may use the following process:

- a. firstly, facilitate market and voluntary processes, including expressions of interest or tenders if required, to acquire required effort.
- b. if insufficient effort is recouped through this process, then, following consultation with South Australia's recognised peak commercial fishing industry body(ies), either:
 - for quota-managed fisheries, compulsorily acquire required quota across all licence holders through a range of mechanisms as needed; or
 - for effort-controlled fisheries, apply a ballot process to compulsorily acquire any additional effort and/or licences as required.

In addressing the adjustment process:

- any adjustment scheme will be designed and implemented so as to avoid the distortion of the orderly operation of the market for fishing access entitlements;
- any adjustment scheme associated with Marine Parks will, where practicable, be integrated with other relevant adjustment efforts either regionally or on a fishery or fishery sector basis; and
- key stakeholders will have the opportunity to participate in the design and implementation of any adjustment scheme.

iv. Compensation

Application

- Section 21 of the *Marine Parks Act 2007* states:

"If the rights conferred by a statutory authorisation under another Act are affected by the creation of a zone or the imposition of a temporary prohibition or restriction of activities within a marine park, the Minister must pay fair and reasonable compensation to the holder of the statutory authorisation or, if the Minister considers it appropriate to do so, compulsorily acquire, and pay fair and reasonable compensation for, the statutory authorisation, or any interest (or part of any interest) under a statutory authorisation".
- Compensation will be determined by the

Minister for Environment and Conservation on a case-by-case basis.

- Any commercial fishing licence holder whose entitlement has been compulsorily acquired will be offered fair and reasonable compensation.
- Any commercial fishing licence holder that believes their statutory right has been affected, but whose entitlement has not been compulsorily acquired, may make an application for fair and reasonable compensation. The application must set out the reasons for such an application.
- The Government may provide further guidance as to the application procedures and other matters through either published administrative procedures and/or regulation (including a minimum three-month application period).

Assessment of compensation claims

- The Minister for Environment and Conservation will establish an independent Assessment Panel to provide advice on applications for compensation that are received under Section 21 of the *Marine Parks Act 2007*.

the industry manage any residual impacts in adjusting their businesses;

- employee assistance - this component would assist displaced employees of fishing and fishery related businesses find alternative employment and offset any short term costs associated with the loss of employment;
- business advice assistance - this component would support affected businesses seeking independent, professional advice on their participation in the compensation process and other available assistance;
- community assistance - this component would assist communities with a high dependence on fishing adjust to reduced fishing activity through the creation of alternative, long term employment and economic opportunities;
- social assistance - this component would make available professional counselling and other assistance to address the negative social consequences of any loss of employment .

The Government will seek the advice of key stakeholders regarding the design and, where relevant implementation of, any discretionary assistance package.

v. Appeals Process

- Any holder of a commercial fishing licence who is dissatisfied with the value of compensation offered may seek reconsideration by contacting the Minister for Environment and Conservation within 28 days of receiving a decision/offer and setting out the reasons for seeking reconsideration.
- If still dissatisfied with the outcome of the reconsideration the licence holder may appeal to the Environment, Resources and Development Court.

Discretionary assistance

At its discretion, the Government may provide further assistance, through existing or new programs, in helping commercial fishing licence holders to adjust to the marine parks zoning and management arrangements.

Such additional assistance could include:

- business restructure assistance - this component would assist fishers remaining in