



Australian Government

Australian Government response to the
Regional Affairs and Transport References Committee
report:

Fisheries quota system

March 2024

Introduction

On 7 December 2020, the Senate moved that the Rural and Regional Affairs and Transport References Committee initiate an inquiry into the fisheries quota system including examining whether the current 'managed microeconomic system' established around a set of individual transferable quotas results in good fishing practice. The terms of reference for the inquiry were to consider the fisheries quota system and examine whether the current 'managed microeconomic system' established around a set of individual transferable quotas results in good fishing practice, with particular reference to:

- a) good fishing practice that is ecologically sustainable with an economic dynamic that produces good community outcomes;
- b) how the current quota system affects community fishers;
- c) whether the current system disempowers small fishers and benefits large interest groups;
- d) the enforceability of ecological value on the current system, and the current system's relationship to the health of the fisheries;
- e) whether the current system results in good fishing practice that is ecologically sustainable and economically dynamic, and produces good community outcomes;
- f) any other related matters.

The committee called five public hearings and received 71 submissions to inform its deliberations and findings.

The Committee released its findings in December 2022, in a report titled *Fisheries Quota Systems*. The Committee found that under the Commonwealth quota system, economic performance, safety and ecological sustainability had generally improved. It concluded that 'quota management in Commonwealth fisheries has been a success, and the committee supports its continued application and development as a best practice management system'.

The Committee found there may be room for further improvement and made several recommendations aimed at addressing concerns associated with quota systems. The recommendations included reviewing the objectives of fisheries management to ensure they remain fit for purpose, addressing market and competition issues, and further improving ecological performance.

The government welcomes the Committee's report and thanks Committee members for their work in delivering the report and its associated recommendations. We acknowledge that fisheries management is a complex and evolving policy area, with various trade-offs and challenges involved in balancing competing objectives. When fisheries are managed sustainably, they provide a low impact, low emissions, reusable source of food production.

While Individual Transferable Quota (ITQ) systems do not solve all the challenges that can arise in fisheries management, they remain best practice for addressing the competing environmental, economic, and social considerations in the fishing sector. With careful monitoring and continuous evidence-based improvement, ITQ systems can be further optimised to support sustainable and equitable management of our fisheries resources for the benefit of present and future generations. By investing in research and innovation, and the ongoing reviews of the Commonwealth's Fisheries Harvest Strategy Policy 2018 and Fisheries Bycatch Policy 2018, we can ensure that these systems are applied to their full potential while taking into account the concerns of stakeholders and the need for collaboration among all parties involved.

The government's response (below) addresses the seven recommendations outlined in the Senate Committee's majority report, as well as the ten recommendations outlined in the Australian Greens' additional comments.

Response — Majority Report

Recommendation 1

The committee recommends that the Australian Government reviews the *Fisheries Management Act 1991*, and associated regulations and guidelines, to ensure that their aims align with the objective that fisheries are managed sustainably and in a way that maximises economic and social returns to the Australian community. The review should consider:

- the adequacy of current cost recovery fees and licencing charges;
- whether maximum economic yield (MEY) remains the preferred measure for setting total allowable catches (TACs);
- employment outcomes of the quota system and whether these align with government and community priorities.
- the performance of modified quota systems and royalty schemes that have been implemented in international jurisdictions, and their applicability in Commonwealth fisheries; and
- how the current resource sharing model can incorporate recreational and customary fishing into the fisheries management framework.

Response

The Australian Government **notes** this recommendation.

The government is reviewing the *Commonwealth Fisheries Harvest Strategy Policy 2018* (the Harvest Strategy Policy) and the *Commonwealth Fisheries Bycatch Policy* (the Bycatch Policy). These reviews will consider some of the recommended areas for review. For example, the Harvest Strategy Policy considers methods for setting Total Allowable Catches. The Government will continue to monitor the efficacy of the *Fisheries Management Act 1991* in the context of these reviews.

Also relevant to the recommendation is:

- The Australian Fisheries Management Authority (AFMA) undertakes regular reviews of its cost recovery framework in line with the Department of Finance Cost Recovery Guidelines: <https://www.afma.gov.au/corporate-and-reports/afmas-cost-recovery-implementation-statement-2022-23>.
- The *Commonwealth Resource Sharing Framework 2020* recognises recreational and customary fishing in developing and implementing resource sharing arrangements. The framework can be found at the following link agriculture.gov.au/agriculture-land/fisheries/domestic/resource-sharing.

Recommendation 2

The committee recommends that the Australian Government builds on its establishment of the Commonwealth fisheries resources sharing framework to make publicly owned quota available for small and lease fishers, community and First Nations fishers, and other stakeholder groups.

Response

The Australian Government **does not support** this recommendation.

There is no publicly owned quota in Commonwealth fisheries.

In the case of small, lease and community fishers, for the government to make quota available for these groups it would be required to purchase existing quota. This would influence overall prices and potentially put existing small to medium operators at a disadvantage. It may also create incentives for small operators to sell existing quota, only to compete for discounted government leases.

In relation to First Nations fishers, the *Commonwealth Resource Sharing Framework 2020* provides that in developing and implementing resource sharing arrangements, the Australian government will support arrangements that increase First Nations involvement in fisheries businesses and related commercial opportunities. For example, assisting First Nations businesses to become commercial-ready or to purchase quota themselves.

Recommendation 3

The committee recommends that the Australian Fisheries Management Authority increases the transparency of quota holdings by

- improving the format and readability of current registers to more clearly identify quota holders;
- improving communication with industry around existing registers; and
- developing a more robust register of quota for sale, or a trading platform, to better connect sellers with potential buyers.

Response

The Australian Government **agrees in part** with this recommendation.

The *Fisheries Management Act 1991*, *Fisheries Administration Act 1991* and supporting Regulations and Management Plans detail the requirements of quota registers. AFMA's current registers, including the agency's supporting information technology infrastructure, are structured to meet these requirements.

AFMA has recently commenced a process to enhance and improve its data systems, including its public-facing registers. This will provide an opportunity to consult with affected stakeholders on improving these systems. The recommendations around format, readability and communication will be considered in the context of this work.

AFMA has recently commenced publishing average quota trade price data on the AFMA web site. Possessing and publishing (in summary form) quota price information can improve flexibility and efficiency of the quota market and benefit operators. Clear and transparent

price signals can make trading easier and provide buyers and sellers more confidence in the market.

The government does not agree with the recommendation that AFMA develop a register of quota for sale or that AFMA be more closely involved in quota trading. Commercial transactions are a matter for the private sector and several brokers already provide these services to the industry.

Recommendation 4

The committee recommends that the Department of the Treasury works across government portfolios and agencies to ensure that there is transparency about the actual level of foreign ownership of Commonwealth fisheries quota.

Response

The Australian Government notes this recommendation.

The government publishes a quarterly report on foreign investment screening data, the most recent report was published on 8 February 2024 for the 1 July – 30 September 2023 period. The quarterly report was introduced in response to the evaluation of the 2021 foreign investment reforms which found that regular performance reporting would improve the transparency of foreign investment regulation in Australia.

The report breaks down screening data into sectors, including “Agriculture, Forestry and Fishing” which recorded 30 approved investment proposals (to the value of \$1.0 billion) in the 1 July – 30 September quarter and 45 approved investment proposals (to the value of \$1.5 billion) in the 1 April – 30 June 2023 period.

The new Register of Foreign Ownership of Australian Assets increases transparency of foreign investment in Australia by creating obligations on foreign persons to notify for an increased number of interests in different asset-types. For more information, please see the response to Australian Greens Recommendation 9.

Recommendation 5

The committee recommends that the Australian Government asks the Australian Competition and Consumer Commission to inquire into current competition issues in the fisheries quota system.

Response

The Australian Government **notes** this recommendation.

Fishers are subject to prohibitions on anti-competitive conduct in the *Competition and Consumer Act 2010*, and the Australian Competition and Consumer Commission is currently investigating alleged breaches of these prohibitions in the fisheries sector.

Recommendation 6

The committee recommends that the Australian Government asks the Regional Investment Corporation to establish a loan facility for small and lease fishers to assist with the purchase of quota, vessels, and equipment in Commonwealth-managed fisheries.

Response

The Australian Government **does not support** this recommendation.

The Regional Investment Corporation was established to deliver the Commonwealth's farm business concessional loans scheme (previously delivered by states and territories) in a nationally consistent manner. The loans are targeted at farm businesses in financial need who are financially viable in the long term, have the capacity to repay the loan, have existing commercial debt and are able to provide sufficient and satisfactory security.

Further key eligibility criteria require the farm business to be involved within the agricultural, horticultural, pastoral, beekeeping (apicultural) or aquacultural industries and undertake all primary production aspects of the business wholly within Australia.

The RIC completed a review of its farm business definition in 2022. This included consultation to understand whether its current farm business definition was fit for purpose and reflective of industry needs. The review's outcome did not extend the farm business definition to wild catch fishers on the basis that the sector harvests a common resource rather than having ownership of a stock being cultivated. This approach to eligibility aligns with other government support measures such as the Farm Household Allowance program.

Further information is available at ric.gov.au/eligible-industries.

Recommendation 7

The committee recommends that the Australian Government undertakes an independent stock assessment of the Spanish Mackerel fishery.

Response

The Australian Government **does not support** this recommendation.

There are four principal commercial fisheries for this species, managed by Queensland, the Northern Territory, Western Australia and The Torres Strait Protected Zone Joint Authority respectively. Responsibility for management and stock assessment sits with each relevant management authority.

In relation to general research needs, the Fisheries Research and Development Corporation is funding a project (project code 2021-111) to address uncertainties in the methodology of Spanish Mackerel stock assessment.

Response — Additional recommendations by the Australian Greens

Australian Greens - Recommendation 1

The committee recommends the Australian Government adopts and implements Recommendations 2, 3, 4, 5, 6 and 12 from the 2012 Review of Commonwealth Fisheries: Legislation, Policy and Management (Borthwick Review), which propose changes to fisheries legislation to give equal weight to addressing fisheries ecosystem effects, bycatch and discard issues.

Response

The Australian Government **notes** this recommendation.

Recommendation 3 of the 2012 Borthwick Review recommends amendments be made to the objectives of the *Fisheries Management Act 1991* to explicitly require AFMA to give equal attention to three 'pillars': harvest strategy matters, bycatch and discard matters, and ecosystem impacts. In addition, the Borthwick Review notes that such amendments should make it explicit that equal attention does not always mean equal outcomes, and trade-offs may apply where there is conflict between the three pillars. This is reflected in the other recommendations of the Borthwick Review.

The current reviews of the Harvest Strategy Policy and Bycatch Policy are an opportunity to consider more explicit guidance on incorporating ecosystem impacts into fisheries management decision making. As noted in the response to Recommendation 1 of the Committee Report, the Australian Government will continue to monitor the efficacy of the *Fisheries Management Act 1991* in the context of this review.

Australian Greens - Recommendation 2

The committee recommends that the Australian Government formally adopts and implements Recommendation 7 of the 2012 Review of Commonwealth Fisheries: Legislation, Policy and Management (Borthwick Review):

- AFMA needs to introduce more transparency and accessibility into its consultation and decision-making processes.
- Ahead of Commission decisions, in addition to Management Advisory Committee (MAC) and Resource Assessment Group (RAG) processes, AFMA should seek opportunities to prepare issues/options papers on key issues, thereby tapping into broader ranges of input from commercial and recreational fishers, scientists, NGOs and the general public.
- The decisions of the Commission, including the reasons for decisions, should be more readily available to the public.
- There is no good reason for a statutory requirement for the Commission to meet with the peak industry body following the tabling of a report on AFMA's operations in Parliament and this requirement should be removed from the FAA.

Response

The Australian Government **notes** this recommendation.

AFMA has in place comprehensive and inclusive consultative processes plus accountability measures such as publishing outcomes of each Commission meeting and regular correspondence to industry bodies to explain more detailed rationale behind the Commission's decisions. Under the *Fisheries Administration Act 1991*, AFMA is also required to hold an annual public meeting, now held in a hybrid form (online and in-person) to facilitate greater attendance and open to members of the public and stakeholders.

As a matter of good governance, AFMA has recently commissioned a review of its key consultative mechanisms – that is, resource assessment groups and management advisory committees – to ascertain whether the current structures continue to be appropriate in providing advice and recommendations to AFMA and its Commission and any areas where these could be improved.

Most decisions taken by AFMA are operational in nature and based on well-established legislation and government policy (such as the Harvest Strategy Policy). As such, AFMA considers that the current consultative mechanisms are appropriate and proportionate. Introducing additional levels of consultation would be unlikely to offer additional value but would come at a cost in terms of timeliness of decisions and increased levies on industry. Beyond these operational decisions, when AFMA reviews its existing policies and establishes new ones, it undertakes extensive consultation, including through its web page afma.gov.au/consultations.

Decisions of the AFMA Commission are distributed via the AFMA website and are available at afma.gov.au/commission-meeting-summaries.

Australian Greens - Recommendation 3

The committee recommends that the Australian Government develops a formal and transparent process to incorporate the advice and expertise of fisheries ecologists into fisheries management plans, the setting of total allowable catches (TACs), and development of harvest strategies.

Response

The Australian Government **agrees in part** with this recommendation.

The current review of the Harvest Strategy Policy is an opportunity to consider more explicit guidance on incorporation of broader ecosystem considerations into fisheries management decision making, including the setting of total allowable catches.

AFMA routinely commissions research that either incorporates or focuses on ecological risks; most recently, research led by the Commonwealth Scientific and Industrial Research Organisation on the development of multi-species harvest strategies has included comprehensive analysis of ecosystem linkages and impacts to better account for these in the setting of total allowable catches for individual species.

AFMA's advisory groups include a range of scientists, including some with marine ecological expertise, and appointment of individual experts is based on the needs of the particular fishery. As already noted, AFMA has recently commissioned a review of its main consultative groups, which is expected to identify any gaps in existing expertise and advice.

Australian Greens - Recommendation 4

As part of the Australian Fisheries Management Authority's (AFMA) upcoming assessment of its Resource Assessment Groups, AFMA should consider the inclusion of fisheries ecologists on these committees.

Response

The Australian Government **agrees** with this recommendation.

AFMA commissioned a review of its Management Advisory Committees and Resource Assessment Groups during 2022/2023. The review made no explicit recommendation on including fisheries ecologist members on committees, however AFMA has already put in place such a member on one of its committees and will continue to do so on other committees where applicable.

Australian Greens - Recommendation 5

The committee recommends that the Australian Government considers the failure of ITQ and other management tools to sustainably manage the South East Trawl Fishery as part of its statutory ten-year review of the South East Bioregional Network, looking at:

- the benefits of upgrading green (no take) zones in the existing Marine Park Network; and
- the benefits of establishing new Marine Parks as an insurance against climate change uncertainties and to assist existing ecosystems, habitats and fisheries to recover.

Response

The Australian Government **notes** this recommendation.

Newly available science tells us the decline and non-recovery of several species in the South East Trawl Fishery has been driven by external factors such as climate change and is not caused by current catch levels. AFMA responded to these reduced stock levels with significant area closures and reductions in Total Allowable Catches to allow rebuilding.

This adaptive fisheries management response, along with ongoing monitoring, review and further adaptation if required, pursues the sustainability objectives in the *Fisheries Management Act 1991*.

Australian Marine Parks have different objectives of protecting and conserving biodiversity and supporting compatible ecologically sustainable use through a system of marine protected areas that is comprehensive, adequate and representative.

The Director of National Parks is undertaking the statutory ten-year review of the South-east Marine Parks Network Management Plan 2013-2023. The government has committed to undertaking statutory reviews in a timely and consultative manner, with any changes to park management arrangements considered on the basis of science and stakeholder consultation.

Australian Greens - Recommendation 6

The committee recommends that the Australian Government surveys and publishes measures of net economic returns (NER) for those Commonwealth fisheries not currently surveyed, and adopts other annual public reporting metrics on economic returns, such as the percentage of public rent for all Commonwealth fisheries.

Response

The Australian Government **agrees in part** with this recommendation.

The Australian Bureau of Agricultural and Resource Economics and Sciences (ABARES) routinely conducts economic surveys of several of the larger value Commonwealth fisheries. Using data from these surveys, ABARES calculates and publishes measures of economic performance, including net economic returns and productivity. For lower value fisheries and/or for fisheries with a small number of boats, conducting economic surveys is typically not feasible. This is due to confidentiality issues associated with small sample sizes given the commercial nature of the data. However, as part of its annual assessments in the Fishery Status Reports, ABARES uses available information to assess the economic performance of each Commonwealth fishery. For lower value fisheries, this typically includes information on latency of quota/fishing permits, management costs and a qualitative assessment of the management tools in place.

Australian Greens - Recommendation 7

The committee recommends that the Fisheries Research and Development Corporation supports a research project to build on work submitted by the University of Tasmania's Institute for Marine and Antarctic Studies providing international examples of resource rents, or access payment schemes, and their suitability to Commonwealth fisheries. The project should lead to a publicly available report providing detailed assessments for individual Commonwealth fisheries.

Response

The Australian Government **agrees in part** with this recommendation.

FRDC is funding a project that addresses a significant part of this recommendation with the Institute of Marine and Antarctic Studies (Utas) (FRDC project code 2020-029 "Improving performance of ITQ fisheries"). The Project Objectives are as follows:

- Assess the effects of adoption and ongoing management of Individual Transferable Quotas including consequences that flow from Individual Transferable Quotas and the effects of the adoption on specific performance indicators.
- Develop adaptive management options for existing Individual Transferable Quotas that will assist in managing the impact of unintended and unwanted consequences.
- Better support managers in planning for the mitigation and management of unintended and unwanted consequences over time, including the cost of implementing change.

- Provide options to fishery managers and stakeholders to assist in the adjustment of existing fisheries management under Individual Transferable Quotas to avoid, or mitigate, unintended and unwanted consequences and/or enhance unintended but positive consequences.

The outcomes of this research project will assist in any future consideration of ITQ frameworks for Commonwealth fisheries.

Australian Greens - Recommendation 8

The committee recommends that the Australian Government seeks legal advice and considers adopting amendments to the *Fisheries Management Act 1991* and *Fisheries Administration Act 1991* that, as in Western Australia's Fish Resource Management Act 1994, enables the control of foreign interests in Commonwealth fishing, and provides the Fisheries Minister with the ability to issue guidelines, bans or caps relating to foreign persons holding, controlling or having an interest in authorisations (quota holdings).

Response

The Australian Government **does not support** this recommendation.

The government is committed to ensuring that foreign investment into Australia remains in our national interest and does not pose risks to our national security. We welcome foreign investment and note its importance for growth, innovation and the creation of skilled jobs, and its contribution to the prosperity of businesses, communities and the Australian economy.

Australian Greens - Recommendation 9

The committee recommends that the Department of the Treasury works across government portfolios and agencies to establish a register of foreign and non-fishing interests which reports on the actual level of foreign and non-fishing ownership of Commonwealth fisheries quota, and any barriers to transparency.

Response

The Australian Government **notes** this recommendation.

There is an existing register that tracks foreign ownership in land and water.

The Register of Foreign Ownership of Agricultural Land and the Register of Foreign Ownership of Water Entitlements were incorporated into the Register of Foreign Ownership of Australian Assets (RFOOA) on 1 July 2023.

Previous associated reports from these registers were released annually. RFOOA reports are required to be published as soon as practicable after 30 June every year.

The new Register amalgamates and expands existing registers administered by the ATO, providing a streamlined experience for foreign investors to manage their investment affairs, supports compliance with Australia's foreign investment framework and increases the government's visibility of foreign investments made in Australia.

It increases visibility on foreign ownership by creating additional obligations to notify of a foreign acquisition of Australian assets through expanded notification requirements to include all types of Australian land, as well as certain tenements, business assets and securities.

Australian Greens - Recommendation 10

The committee recommends that the Australian Government explores options to acquire quota, and make this publicly owned quota available for divers, small and lease fishers, community and First Nations fishers, and other stakeholder groups.

Response

The Australian Government **does not support** this recommendation.

See response to Recommendation 2 of the Committee Report.