

## RESPONSE TO THE INTERIM REPORT SURVEY

*Note: Responses were automatically limited to 255 characters unless otherwise indicated*

### Name

Commonwealth Fisheries Association

### Do you give permission for your submission to be published?

Yes - with my name and organisation

## NATIONAL LEVEL PROTECTION AND CONSERVATION OF THE ENVIRONMENT AND ICONIC PLACES

**Legally enforceable National Environmental Standards should be the foundation for effective regulation. The Standards should focus on outcomes for matters of national environmental significance, and the fundamentally important processes for sound and efficient decision-making. Standards will provide certainty—in terms of the environmental outcomes the community can expect from the law, and the legal obligations of proponents.**

### Agree

See comments at end of submission

**The goal of the EPBC Act should be to deliver ecologically sustainable development. The Act should require that National Environmental Standards are set and decisions are made in a way that ensures it is achieved. The Act should support a focus on protecting (avoiding impact), conserving (minimising impact) and restoring the environment.**

### Agree

See comments at end of submission

**A greater focus on adaptive planning is required to deliver environmental outcomes. Regional plans should be developed that support the management of cumulative threats and set clear rules to manage competing land uses at the right scale.**

### Agree

We support this premise, as for a long time fisheries have borne the brunt of poor land practices. We do have concerns that fisheries may be held responsible for the inactions of others under NES especially for protected and threatened species.

**Strategic national plans should be developed for big-ticket, nationally pervasive issues such as the management of feral animals or adaptation of the environment to climate change. These plans should guide the national response and enable action and investment by all parties to be effectively targeted and efficient.**

## INDIGENOUS CULTURE AND HERITAGE

The National Environmental Standards should include specific requirements relating to best practice Indigenous engagement, to enable Indigenous views and knowledge to be incorporated into regulatory processes.

The national level settings for Indigenous cultural heritage protection need comprehensive review. This should explicitly consider the role of the EPBC Act in providing protections. It should also consider how comprehensive national level protections are given effect, including how they interact with the development assessment and approval process of the Act.

Indigenous knowledge and western science should be considered on an equal footing in the provision of formal advice to the Environment Minister. The proposed Science and Information Committee should be responsible for ensuring advice incorporates the culturally appropriate use of Indigenous knowledge.

Where aligned with their aspirations, transition to Traditional Owners having more responsibility for decision-making in jointly managed parks. For this to be successful in the long term there is a need to build capacity and capability, so that joint-boards can make decisions that effectively manage risks and discharge responsibilities.

Improved outcomes for Indigenous Australians will be achieved by enabling co-design and policy implementation.

#### **Agree**

The role of the Indigenous Advisory Committee should be substantially recast as the Indigenous Knowledge and Engagement Committee, whose role is to provide leadership in the co-design of reforms and advise the Environment Minister on the development and application of the National Environmental Standard for Indigenous engagement.

### LEGISLATIVE COMPLEXITY

In the short-term, legislative amendments to the EPBC Act are required to address known inconsistencies, gaps, and conflicts in the Act.

In the longer-term, a comprehensive redrafting of the Act (or related Acts) is required. This should be done following the development of the key reforms proposed by this Review. This sequencing will ensure that legislation is developed in a way that supports the desired approach, rather than inadvertently hindering it.

Redrafting could include consideration of dividing the Act—such as creating separate pieces of legislation for its key functional areas.

### EFFICIENCY - REMOVING DUPLICATION

Devolve decisions to other jurisdictions, where they demonstrate National Environmental Standards can be met.

#### **Agree**

We support the premise of devolved decision making where this will result in increased efficiency and cost savings yet maintain and uphold the objects of the Act.

**To base devolution on sound accreditation, quality assurance and compliance, escalation (including step-in capability) and regular review.**

**Agree**

As a minimum, EPBC Act approvals and accreditations based on NES for fisheries need to be aligned with, but not necessarily the same as, globally recognised third-party certifiers.

**Assessment pathways should be rationalised and implemented with clear guidance, modern systems and appropriate cost recovery. Small investments can dramatically reduce cost and uncertainty and improve decision-making.**

**Agree**

Aligning NES to be consistent with measures and variables assessed by third party fishery certifiers (such as Marine Stewardship Council, MSC) should be a key aspects of the development of NES for fisheries.

**These, and other reform directions proposed (National Environmental Standards, regional plans, information and data, modern regulatory systems) create opportunities for significant streamlining and efficiency, including where low risk actions will not require approval.**

**Agree**

the adoption of NES will be challenging. However, we agree in principle that efficiency and consistency gains between State, Territory and Commonwealth should be pursued.

**Streamline provisions for permitting of wildlife trade and interactions with other environmental frameworks.**

**Strongly agree**

#### TRUST IN THE EPBC ACT

**Improve community participation in decision-making processes, and the transparency of both the information used and the reasons for decisions.**

**Provide confidence that decision-makers have access to the best available environmental, cultural, social and economic information.**

**Amend the settings for legal review. While retaining extended standing, provide for limited merits review for development approvals. Legal challenges should be limited to matters of outcome, not process, to reduce litigation that does not have a material impact on the outcome.**

#### DATA, INFORMATION AND SYSTEMS

**A national 'supply chain' of information is required so that the right information is delivered at the right time to those who need it. This supply chain should be an easily accessible 'single source of truth' on which the public, proponents and governments can rely.**

**To deliver an efficient supply chain, a clear strategy is needed so that each investment made contributes to building and improving the system over time.**

A custodian for the national environmental information supply chain is needed. The Commonwealth should clearly assign responsibility for national level leadership and coordination. Adequate resources should be provided to develop the systems and capability that is needed to deliver the evidence base for Australia's national system of environmental management.

**Agree**

A National Environmental Standard for information and data should set clear requirements for the provision of data and information in a way that facilitates transparency and sharing. The standard should apply to all sources of data and information, including information collected by proponents.

To apply granular standards to decision-making, Government needs the capability to model the environment, including the probability of outcomes from proposals. To do this well, investment is required to improve knowledge of how ecosystems operate and develop the capability to model them. This requires a complete overhaul of existing systems to enable improved information to be captured and incorporated into decision-making.

#### MONITORING, EVALUATION AND REPORTING

A coherent framework to monitor and evaluate the effectiveness of the EPBC Act in achieving its outcomes and the efficiency of its implementation should be developed. The framework must be backed by a commitment to its implementation.

A revamp of national SoE reporting should incorporate trend analysis and address future outlooks to provide the foundation for national leadership on the environment.

National environmental economic accounts will be a useful tool for tracking Australia's progress to achieve ecologically sustainable development (ESD). Efforts to finalise the development of these accounts should be accelerated, so they can be a core input to SoE reporting.

#### RESTORATION

The EPBC Act should require offsets to be considered only when options to avoid and then mitigate impacts have been actively considered, and demonstrably exhausted.

**Agree**

The EPBC Act should require offsets, where they are applied, to deliver protection and restoration that genuinely offsets the impacts of the development, avoiding a net loss of habitat.

**Agree**

The EPBC Act should incentivise investment in restoration, by requiring decision-makers to accept robust restoration offsets, and create the market mechanisms to underpin the supply of restoration offsets.

**Strongly agree**

More work needs to be done to understand the offset contribution of marine habitat restoration activities such as oyster reefs, mangroves, seagrasses and algae

**There are opportunities for government to explore policy mechanisms to accelerate environmental restoration including those to leverage the carbon market, which already delivers restoration, to deliver improved biodiversity in suitable habitat types.**

**Strongly agree**

More work needs to be done to understand the offset contribution of marine habitat restoration activities such as oyster reefs, mangroves, seagrasses and algae

**There are opportunities for government to explore policy mechanisms to accelerate environmental restoration including those to co-invest with the philanthropic and private sectors, including funding innovation to bring down the cost of environmental restoration, growing the habitat available to support healthy systems.**

**Strongly agree**

#### COMPLIANCE, ENFORCEMENT AND ASSURANCE

**Establish a modern, independent regulator responsible for monitoring, compliance, enforcement and assurance to be a strong cop on the beat.**

**Not applicable**

We worry about the increased cost burden likely to be bore by commercial fishers when we already have high levels of compliance and monitoring

**Increase the transparency of activities.**

**Effectively draw on Standards, simplified law, and better systems to increase compliance and simplify enforcement and assurance.**

**Agree**

Provided this does not result in additional costs to industry

**Shift focus toward assurance of devolved decision-making and monitoring, compliance and enforcement of national strategic plans, regional plans, offsets and regeneration.**

**Agree**

**Provide the regulator with a full suite of modern regulatory monitoring, compliance, enforcement and assurance tools and adequate funding.**

#### PROPOSED REFORM PATHWAY

**Do you broadly agree with the phased approach proposed by the Review?**

**Agree**

#### BROADER VIEWS (no character limit)

**What has been missed?**

The report does not raise the potential role for recognised third party accreditations to be incorporated into approval process such as WTO. The key one for fisheries being the Marine Stewardship Council (MSC) accreditation.

The report does not address concerns raised by the CFA in regard to listed species management. As our initial submission stated:

Section 248 contains a list of statutorily protected species. Section 250 conflates this protected list with listing for long term conservation needs. The PC Inquiry (2016) noted that ‘the purpose of the [s248] list is not clear nor is the rationale [behind the listing]’. This a further example of confusion created by overlap and duplication under the EPBC Act. Additional species can be added under Section 250 but only if required for ‘long term conservation’. None have been added. EPBC Act protected species provisions conflate statutory protection with long term conservation, regardless of whether a listed marine species actually requires conservation action. This can cause practical problems for plans for recovery and the need for ‘risk assessments’ when a species is already common. It would appear s248 Protected Species listing represents a social choice and should be addressed as such.

### **How could the proposed reform directions be improved?**

### **Are there fundamental shortcomings that would require the Reviewer to rethink?**

#### Consolidated comments on National Environmental Standards

Only time will tell how National Environmental Standards will apply to fisheries. The potential gains around certainty would be welcome, however without knowing the cost of such certainty it is difficult to provide a definitive statement on our support or otherwise. We are of the view that commercial fisheries, and particularly Commonwealth managed commercial fisheries are already meeting a very high level of environmental standard (nationally and globally).

We note the Interim Report appears to have assumed that Commonwealth legislation will always be stricter than State legislation. However, Commonwealth fishers, operating in State waters (such as NPF), may find that they breach State laws while still complying with a management plan authorised under the EPBC Act. Addressing this under NES would be a positive outcome. The success or failure of a set of NES for fisheries will be determined by the process in which they are determined, applied, and enforced.

We do have concerns that fisheries may be held responsible for the inactions of others by applying unreasonable NES especially for protected and threatened species.

Given the wide range of approaches to ecologically sustainable development of fisheries and environment protection across jurisdictions, the adoption of NES will be challenging. However, we agree in principle that efficiency and consistency gains between State, Territory and Commonwealth should be pursued.

Aligning NES to be consistent with measures and variables assessed by third party fishery certifiers (such as Marine Stewardship Council, MSC) should be a key aspects of the development of NES for fisheries.

