

## **Inquiry into the Regulation of Australian Marine Fisheries and Aquaculture Sectors**

### **Terms of Reference**

I, Scott Morrison, Treasurer, pursuant to Parts 2 and 3 of the *Productivity Commission Act 1998*, hereby request that the Productivity Commission undertake an inquiry into the regulatory burden imposed on the Australian marine fisheries and aquaculture sectors.

### **Background**

Commonwealth, State and Territory governments are responsible for the management of Australian fisheries within their respective jurisdictions. Regulations are used to implement controls, such as limits on catch or effort levels, and regulate fishing methods in order to manage Australia's fisheries in a way that meets social and economic considerations and ecological sustainability objectives.

Except where agreement is reached to the contrary, state/territory laws apply to coastal waters (up to three nautical miles) and Commonwealth laws apply from those waters out to the limit of the Australian fishing zone (200 nautical miles). As most recreational and traditional indigenous fishing activity occurs in waters within state/territory jurisdiction, state/territory administrations generally manage these forms of fishing activity.

As a result, Australia's commercial fisheries are governed by a total of eight jurisdictions (the Commonwealth, states and the Northern Territory), with each jurisdiction developing specific regimes for fisheries management, fisheries research, reporting and environmental protection. In addition, there are 59 separate arrangements under the Offshore Constitutional Settlement that determine how cross-jurisdictional stocks are to be managed. There are also four joint fisheries authorities. This regulatory environment oversees an industry that has a gross value of production of \$1.3 billion per annum. It is also an industry that has been the subject of a large number of recent inquiries and reviews at many levels.

While Australia's fisheries are regarded as sustainable, reliable and safe, there is scope to improve the management of fisheries through effective and coordinated regulatory and management arrangements. This includes the streamlining of regulations, rationalising jurisdictional and offshore constitutional settlement arrangements through improved cross jurisdiction and multi-jurisdictional regulatory regimes, information and service sharing, and harmonisation of environmental, management and compliance arrangements.

While aquaculture is within scope, it was the subject of a Productivity Commission research paper in 2004 which examined existing planning and environmental regulatory arrangements. The Commission should use the findings of this research as a basis to inform its current inquiry rather than commencing a new investigation into issues impacting the aquaculture sector.

### **Scope of the inquiry**

The inquiry will identify opportunities to increase productivity and cut unnecessary and costly regulation, including where regulations are poorly coordinated between jurisdictions. The inquiry will therefore consider whether there are opportunities to improve fisheries regulations without compromising fishery policy and environmental objectives. Consideration would be given to regulatory simplification, streamlining and consistency of arrangements across multiple jurisdictions, alternative more efficient regulatory models, the practices of the various regulators and removing unnecessary restrictions on competition.

In doing so, the inquiry will consider the value of strengthened relationships and effective and coordinated management of our fish stocks with a view to reducing the regulatory burden incurred by business, and consumers.

In undertaking the inquiry, the Commission is to have particular regard to impediments to increasing productivity and market competitiveness of the Australian fishing and aquaculture industries, including:

1. The extent to which enhanced and improved use of cross jurisdiction and multi-jurisdictional regulatory regimes, information and service sharing can improve the economic efficiency and the ecologically sustainable use and management of fisheries resources.
2. The extent to which harmonisation or integration of environmental, management and compliance arrangements could improve the effective and efficient operation of the fishing industry and delivery of fisheries policy and environmental outcomes.
3. The extent to which accreditation schemes or recognition of equivalency could reduce the regulatory burden and increase productivity.
4. The extent to which greater use of cost recovery arrangements is applicable and informs the cost of delivering fishery production, conservation and other community service obligations.
5. The extent to which fisheries management regimes align with and protect the interests of the wider community (in particular, the balance between commercial, recreational, indigenous fishing and conservation interests, and consumers' interests).
6. The extent to which fisheries management regimes support greater participation of Indigenous Australians, provide incentives to Indigenous communities to manage their fisheries, and incorporate their traditional management practices in the fishing industry.
7. The degree to which cross jurisdictional regulatory arrangements are transparent, accountable, proportionate, consistent, effective and targeted.
8. The degree to which cost effective and practical non-regulatory mechanisms could be expanded to achieve fisheries management outcomes.

The primary focus of this review will be on Commonwealth, state and territory regulation of wild capture marine fisheries. This will include the interaction of fisheries specific regulation within Commonwealth and State/Northern Territory jurisdictions. It will also need to have regard to the role of the *Environment Protection and Biodiversity Conservation Act (1999)* and other fisheries- related environmental legislation that are directly relevant to Australian marine fishing.

### **Process**

The Commission is to undertake an appropriate consultation process including holding hearings, inviting public submissions and releasing a draft report to the public.

The Commission will consider the submissions and reports of all recent relevant inquiries and government responses. The Commission is to take into account the initiatives at the jurisdictional level relevant to the scope of the inquiry.

The final report should be provided within twelve months of the receipt of these Terms of Reference.

S. MORRISON  
Treasurer