

Australian Greens' Dissenting Report

Introduction

1.1 This inquiry was initiated by the Australian Greens as result of whistle-blower(s) bringing to light serious allegations from within the Tasmanian salmonid industry.

1.2 A leaked email, dated September 2014, was tabled in the Tasmanian Parliament in March 2015. This email was sent by the heads of two of the three major Tasmanian salmon farming companies, Huon Aquaculture and Petuna; and was addressed to the Premier, the Minister for Primary Industries and Water, and a number of senior bureaucrats within the Tasmanian Government. Huon and Petuna alleged that the third major salmon farming company in Tasmania, Tassal, was about to breach the biomass cap in Macquarie Harbour; and that the Tasmanian regulator was engaged in 'disingenuous and misleading' conduct and that this was putting at risk both the health of waterways and the future of the industry.

1.3 The leaked email also stated that Huon and Petuna were 'dismayed' by the Tasmanian Government's handling of regulation under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) in respect of the Federal Minister's decision on the expansion of salmon farming in Macquarie Harbour. These companies alleged that a clear warning sign that the environment we are growing the fish in is becoming compromised' was being ignored. Huon and Petuna called on the Tasmanian Government to act to protect 'the future of the industry and the Macquarie Harbour environment' as they were 'key drivers for the Tasmania's economy and reputation'.

1.4 The serious allegations in this email, as well as the leaked report into dissolved oxygen levels in Macquarie Harbor, were regarded by the Australian Greens as prima facie evidence that serious problems existed with the current environmental planning and regulatory mechanisms. In particular, they implied the Tasmanian Government was failing in its duty as a regulator, and that individual(s) involved felt the need to blow-the-whistle in order to remedy the situation.

1.5 Unfortunately, the genesis of this inquiry and the exceptionality of the allegations in the leaked email are not adequately conveyed in the report of the Committee. The email is not mentioned until two-thirds of the way through the Committee report, and only then in relation to the alleged breach of the biomass cap, and not in relation to the alleged conduct of the Tasmanian regulator.

1.6 It is also extremely disappointing that the inquiry did not hear direct evidence from the heads of the three Tasmanian salmon farming companies who authored or were named in the leaked email; or from the senior bureaucrats who were recipients of the leaked email and who were responsible for regulating the salmon industry at the time.

1.7 The Committee report notes that the Tasmanian Salmonid Growers Association (TSGA) characterised this email as 'point-in-time' communication and stated that the salmon industry is very united. This evidence, along with the absence of specific company representation at the inquiry, indicates that the industry has closed ranks since September 2014. Whilst this apparent unity has arisen from the scrutiny delivered by this inquiry, there is no way for the committee to ascertain if it is likely to be the case into the future.

1.8 It was evident from submissions to this inquiry, and during the public hearings, that the substantive issues raised in the leaked email, such as the biomass cap in Macquarie Harbour, have not been fully addressed by the Tasmanian government. This is a cause of concern, especially for federal government oversight.

1.9 Unfortunately, while the Committee's report is expansive in its coverage of the inquiry, only three recommendations for change are made and these recommendations are weak. The Committee report's conclusions were firmly in favour of the evidence provided by proponents of the salmon industry, including the Tasmanian Government.

1.10 The Australian Greens are of the view that the weighing of evidence to arrive at the conclusions and (lack of) recommendations of the final report was political. As a result, the Committee report is a missed opportunity to provide constructive advice on how to ensure confidence in the future of the salmon industry in Tasmania. The Australian Greens have sought to remedy this by authoring this dissenting report.

Comments on specific recommendations

Chapter 1: Introduction

1.11 The Australian Greens appreciate the range of issues and concerns raised during this inquiry. The Australian Greens wish to thank the individuals and businesses who invested their time to both make submissions and to provide evidence in person.

1.12 In particular, the Australian Greens want to acknowledge the level of professionalism and co-operation provided by the TSGA during the inquiry. However, as noted above, the Australian Greens felt the absence of representatives from the major Tasmanian salmon farmers detracted from the evidence provided by industry.

1.13 The Australian Greens also wish to state for the record our strong advocacy for community representatives to be afforded an opportunity to present evidence at public hearings.

1.14 Finally, the Australian Greens wish to note a number of positive developments that have already occurred as a result of this inquiry being undertaken. These include the allocation of new resources for scientific research; improvements in the Tasmanian Government's approach to regulations; and improvements by companies in relation to communication.

Chapter 2: Overview of the fin-fish aquaculture industry in Tasmania

International certification of the industry

1.15 The Australian Greens do not believe that third-party certification of the Tasmanian fin-fish industry is sufficiently independent or standardised to be able to support the statement in the Committee report that it 'provides additional confidence to stakeholders'.

1.16 Whilst we commend all attempts to improve management practices, there is not a certification scheme that is accepted as the industry standard. As such, certification is not as meaningful to government or the community as it could be because it does not allow for comparison between operators which, for example, Forest Stewardship Certification provides for timber related products.

Recommendation 1

1.17 Fin-fish farming licensees work together to use a single, independent third-party certification scheme to enable better comparison of the performance of different operators.

1.18 Two of the three aquaculture-specific certifications schemes subscribed to by different members of the Tasmanian fin-fish industry—Best Aquaculture Practices and the Global Salmonid Initiative—were established by and are governed by industry. As such, the claim that these bodies are independent is questionable.

1.19 The third aquaculture-specific certification scheme subscribed to by some in the Tasmanian fin-fish industry—the Aquaculture Stewardship Council (ASC)—has an even split between industry and other parties on its board. The Committee's report notes submissions that state that ASC is considered the most credible certification scheme, including by WWF who are a founding member.

1.20 However, this inquiry did not examine the adequacy of existing third-party certification schemes. This is despite the Australian Greens making repeated requests that WWF appear at public hearings.

Community perception

1.21 The Australian Greens wish to place on record that we are strongly in favour of a sustainable salmon industry in Tasmania. This inquiry was initiated by the Australian Greens, in part, to help ensure a sustainable future for the salmon industry in Tasmania. The Australian Greens believe that this view—that scrutiny is essential to long-term viability—reflects that of a large portion of the community who appreciate that industry needs to be regulated in order to avoid a 'tragedy of the commons'.

1.22 The Australian Greens understand that a more open and transparent approach can be onerous for industry from a cost and compliance perspective, but only in the short-term. A genuine commitment by industry to provide more information to the

community is likely to increase trust in the industry and, in the long-run, make life less difficult for all concerned. The salmon industry uses public waterways, and therefore scrutiny of the industry should be of concern to all Tasmanians.

Chapter 3: Waterway health data

Issues raised in relation to waterway health monitoring

1.23 As detailed in the Committee report, a number of submissions raised specific concerns with the adequacy of monitoring of waterway health. However, these concerns have not been translated into corresponding recommendations by the Committee. As a result, the Committee report fails to satisfactorily address the fundamental issue of waterway health monitoring; and fails to reflect the importance of waterway health monitoring to the sustainability of the environment that supports fin-fish farming.

1.24 The lack of baseline data was consistently raised by submitters as preventing a proper analysis of the environmental impact of fin-fish farming. However, the Australian Greens note that the Tasmanian Government has made progress on this issue.

Recommendation 2

1.25 Comprehensive baseline data in respect of waterway health be gathered and analysed before any fin-fish farming licenses are granted in new areas.

1.26 The frequency and type of monitoring undertaken by fin-fish farmers was also raised by many submitters. In response, the Committee notes that some companies conduct monitoring more frequently than required, often in accord with ASC accreditation requirements. As such, the minimum monitoring requirements should be in accord with high standard accreditation requirements.

Recommendation 3

1.27 Fin-fish farming licenses require water quality sampling to be conducted weekly at a minimum.

Recommendation 4

1.28 Fin-fish farming licenses require water quality sampling to include turbidity.

Recommendation 5

1.29 Fin-fish farming licenses require video monitoring to be conducted quarterly at a minimum.

1.30 The lack of consistency of license requirements was also raised by submitters. Coupled with the ad hoc approach to third-party accreditation, this issue stands as a major impediment to proper evaluation of the conduct of any particular fin-fish farmer.

Recommendation 6

1.31 That consistent waterway health monitoring requirements be applied to all fin-fish farming licenses.

1.32 The Committee report also details the breadth of concerns in respect of the public availability and reporting of waterway health monitoring data. The Committee report makes one, non-specific recommendation in this respect. This recommendation avoids the central issue in relation to the transparency of data: waterway health data is information about the state of public waterways and this data should be assumed to be public data unless there is good reason that it should not be.

1.33 The recommendation of the Committee also fails to reflect contemporary approaches to the public availability of data around monitoring and regulation. Governments the world over are moving towards immediate and unfiltered release of public data to facilitate community involvement.

1.34 The evidence provided by Birdlife Tasmania highlights the imbalance in the current approach to waterway health data. Birdlife Tasmania shares their data on the presence of threatened bird species with industry members and their consultants. However, Birdlife Tasmania have to use Right To Information requests to attempt to access—but not be guaranteed to access—birdlife data collected by industry.

Recommendation 7

1.35 Fin-fish farming licenses require all waterway health monitoring data in respect of public waterways to be publicly released as soon as is practicable.

Chapter 4: Impact of fin-fish aquaculture on waterway health

1.36 The impact of fin-fish farming on the environment is the central issue of this inquiry. The sustainability of the Tasmanian salmon industry depends on waterway health being protected. The profitability of salmon farmers, the people employed in the salmon industry, and the flow-on economic benefits that derive from salmon farming all depend on waterway health being understood and being adequately responded to.

1.37 As noted in the Committee report, the conditions in which salmon is farmed in Tasmania are relatively unusual, especially Macquarie Harbour. These conditions appear to be more susceptible to impacts from fin-fish aquaculture than other salmon farming areas in the world.

1.38 It has been made evident during this inquiry that the impact of fin-fish aquaculture on waterway health has not been conclusively established. Accordingly, the Australian Greens accept that it is difficult for the Committee to make clear statements in relation to the impact of fin-fish aquaculture, particularly given the highly technical nature of much impact assessment. However, this underscores the need to address issues related to waterway monitoring and regulatory oversight to ensure the sustainability of salmon farming in Tasmania. This is particularly so in

relation to Macquarie Harbour where issues relating to the impact of salmon farming on endangered species remain unaddressed.

Recommendation 8

1.39 That a Macquarie Harbour Taskforce be jointly established by the state and federal government.

1.40 Membership of this taskforce should include representatives from industry, community, all levels of government, regulators and academic institutions. The taskforce would bring together the numerous and disparate threads of scientific work being undertaken by industry and various agencies so as to develop a better understanding of the ecological processes within Macquarie Harbour.

1.41 The taskforce would report to the state and federal governments, and would: publish real time updates on work plans and an annual report on the state of the environment of Macquarie Harbour; hold community forums to promote the taskforce's work, advise on gaps in scientific understanding and monitoring efforts; provide regular updates on the dissolved oxygen levels and benthic impacts of the industry; and provide advice on potential improvements to environmental practices.

Marine debris

1.42 As is noted in the Committee report, marine debris collected from salmonid operations has been found to be increasing, particularly plastic rope waste.

Recommendation 9

1.43 Fin-fish farming licensees have identifiable rope so that sources of waste can be clearly identified and monitored.

Recommendation 10

1.44 Fin-fish farming licensees are required to report on the amount of marine debris collected, including that which is attributable to their operations.

Recommendation 11

1.45 The federal government's threat abatement plan for the impacts of marine debris on vertebrate marine life should be updated to include the impacts from fin-fish aquaculture.

Chapter 5: Environmental planning and regulation of the fin-fish industry

Independence of decision making

1.46 The apparent failure of the Tasmanian regulator to properly respond to indications of environmental impacts in Macquarie Harbour was the trigger for two of the three major salmon farmers in Tasmania emailing the Tasmanian Government. Commentary from state parliamentarians that this inquiry was a 'witch hunt' indicates that scrutiny of the Tasmanian Government's actions was not considered welcome or

necessary. However, evidence gathered during this inquiry confirms that there are significant shortcomings in the regulation of fin-fish aquaculture in Tasmania.

1.47 The fundamental issue is that the responsible department has a conflict of interest: DPIPWE is both the promoter of the salmon industry and the regulator of the salmon industry. That a regulator has responsibility for such obviously divergent objectives is untenable and at odds with contemporary governance approaches. The risks associated with the real or perceived lack of independence of the Tasmanian regulator, and conflicting management objectives, were identified as far back as 2004 by the Productivity Commission in its report into *Assessing Environmental Regulatory Arrangements for Aquaculture*.

1.48 Establishing a regulatory system that is independent from commercial pressures is essential to ensuring that all relevant interests are given due consideration. It is also essential to ensuring community confidence in the long-term sustainability of the salmon industry.

Recommendation 12

1.49 That Environment Protection Authority (EPA) Tasmania is given responsibility for the regulation of fin-fish aquaculture in Tasmania as prescribed by the Marine Farming Planning Act and the Living Marine Resources Management Act.

Marine Farming Planning Review Panel; merit review mechanisms; and lack of integration of planning processes

1.50 As noted in the Committee report, marine aquaculture is managed in a distinctly different manner to terrestrial and riparian land-use planning matters in Tasmania. Decisions relating to the issuance of licenses and conditions for marine aquaculture are not subject to public hearings; are made by the Minister; and are not subject to appeal.

1.51 The inquiry heard evidence detailing the shortcomings with the process, including that it does not provide adequate opportunity for evidence to be presented; does not allow for evidence to be heard in an open forum; does not encourage consistent and precedent-based decisions; and does not provide an avenue for decisions at odds with legislation to be challenged.

Recommendation 13

1.52 The Marine Farming Planning Review Panel (MFPRP) is empowered to issue marine aquaculture licenses and is required to conduct a public decision-making process regarding the consideration of marine aquaculture licenses in accordance with the Resource Management and Planning System.

Recommendation 14

1.53 Decisions of the MFPRP are appealable to the Resource Management and Planning Appeal Tribunal.

Recommendation 15

1.54 The Tasmanian Planning Commission is empowered to make regional plans and provide state-wide guidance for marine aquaculture activities.

Adequacy of resourcing

1.55 Submissions relating to inland waterway health and the impacts from salmonid hatcheries raised serious concerns about the lack of capacity of the Tasmanian EPA to adequately address pollution issues in areas where it currently does have jurisdiction.

Recommendation 16

1.56 The Tasmanian EPA be adequately resourced to carry out all of its regulatory responsibilities in respect of fin-fish farming.

1.57 While adequately resourced government departments are important to ensuring regulations are properly enforced, the community can also play a role in helping inform regulators of potential impacts from industry activity.

Recommendation 17

1.58 The WaterWatch community program is reinstated with specific focus on aquaculture hotspots; and funded through the federal government's National Landcare Programme.

Chapter 6: Interaction of state and federal laws and regulations*Commonwealth regulation*

1.59 As noted in the Committee report, the Commonwealth does not have an active role in the regulation of fin-fish aquaculture. Rather, the Commonwealth's role is to protect environmental values identified under the EPBC Act.

1.60 Nevertheless, there are a number of reviews of federal activities that could be undertaken to help ensure the quality of oversight of fin-fish aquaculture in Tasmania.

Recommendation 18

1.61 That a review be undertaken into funding opportunities for fin-fish farming provided by the Fisheries Research and Development Corporation and other federal research partnerships to ensure that adequate environment protection requirements are included.

Recommendation 19

1.62 That a review be undertaken into the potential for the development of National Environment Protection Measures specifically related to fin-fish farming impacts on ambient marine, estuarine and fresh water quality.

Recommendation 20

1.63 That a review be undertaken into the development of Water Quality Improvement Plans through the National Water Quality Management Strategy.

1.64 This last review should specifically address reducing nutrient and other forms of pollution from aquaculture activities. Additionally, consideration should be given to adding Tasmanian aquaculture zones as 'water quality hotspots,' including Macquarie Harbour, and extending the Derwent Estuary zone to include the D'Entrecasteaux Channel.

Expansion of farming in Macquarie Harbour and application of the EPBC Act

1.65 The Australian Greens believe that the precautionary principle should be the foremost consideration for the management of the Tasmanian marine environment. The precautionary principle is central the Federal EPBC Act. There is no better example of a marine environment in which the precautionary principle should be applied than the unique Macquarie Harbour, with the endangered Maugean Skate that resides exclusively in a handful of south-western Tasmanian harbours.

1.66 In relation to salmon farming in Macquarie Harbour, the inquiry heard evidence regarding the impacts on water quality; impacts on the aquatic ecosystem including the benthic environment; and matters of national environmental significance including listed threatened species and world heritage properties.

1.67 The Committee report notes the evidence presented that indicates, prima facie, a breach of conditions set by the Federal Environment Minister in his referral decision on Marine Farming Expansion in Macquarie Harbour. It is essential that this evidence be acted upon to ensure that license conditions for fin-fish farming have not been breached.

Recommendation 21

1.68 That an independent investigation be undertaken into whether the conduct of government and industry has been consistent with the referral decision Marine Farming Expansion, Macquarie Harbour, Tasmania (EPBC 2012/6406) as specified by the Environment Minister under section 77A of the EPBC Act.

Recommendation 22

1.69 That the referral decision Marine Farming Expansion, Macquarie Harbour, Tasmania (EPBC 2012/6406) is reconsidered in accordance with section 78 of the EPBC Act on the basis of emerging evidence regarding dissolved oxygen and nitrate limit levels over the range of depths for which the Maugean Skate is known to inhabit.

1.70 Formal identification of Macquarie Harbour as a critical habitat for the Maugean Skate and formal identification of salmon farming as a threat would precipitate the development of a national threat abatement plan and would further help improve management practices to protect biodiversity, listed species, and other world heritage properties.

Recommendation 23

1.71 The registration and identification of critical habitat for the Maugean Skate be made pursuant to section 207A of the EPBC Act.

Recommendation 24

1.72 The national listing of the environmental impacts of fin-fish farming operations is listed as a key threatening process in the next assessment cycle.

**Senator Peter Whish-Wilson
Senator for Tasmania**