

Chapter 1

Introduction

1.1 In recent years, the operation of factory freezer trawlers in Australian waters has attracted controversy. Following the FV *Veronica* in 2004 and the FV *Margiris* in 2012, then known as the FV *Abel Tasman*, the latest vessel to be a source of widespread community and stakeholder concern is the FV *Geelong Star*, which commenced fishing in the Commonwealth Small Pelagic Fishery (SPF) in 2015.¹

1.2 Stakeholders opposed to the operation of factory freezer trawlers in the SPF argued that these vessels harm and/or present significant risk to the marine environment and the sustainability of fishing activities. Other stakeholders, however, contend that the vessels can operate sustainably and that Australia's regulatory system successfully minimises the risk of overfishing and other unacceptable outcomes. This inquiry has provided an opportunity to air and test various claims and counterclaims.

Referral and reporting timeframe

1.3 On 7 September 2015, the Senate referred the following matter to the Environment and Communications References Committee for inquiry and report by 30 April 2016:

The environmental, social and economic impacts of large-capacity fishing vessels commonly known as 'supertrawlers' operating in Australia's marine jurisdiction, with particular reference to:

- (a) the effect of large fishing vessels on the marine ecosystem, including
 - (i) impacts on fish stocks and the marine food chain, and
 - (ii) bycatch and interactions with protected marine species;
- (b) current research and scientific knowledge;
- (c) social and economic impacts, including effects on other commercial fishing activities and recreational fishing;
- (d) the effectiveness of the current regulatory framework and compliance arrangements;
- (e) any other related matters.²

1 Department of Agriculture and Water Resources, *Submission 12*, p. 12; Australian Fisheries Management Authority (AFMA), 'Geelong Star meets AFMA requirements on arrival into Australia', *Media Release*, 1 April 2015.

2 *Journals of the Senate*, 7 September 2015, p. 3040.

1.4 On 31 March 2016, the committee presented an interim report requesting an extension of time to 24 August 2016 for the final report.

1.5 On 8 May 2016, the Governor-General issued a proclamation dissolving the Senate and the House of Representatives from 9 am on 9 May 2016 for a general election on 2 July 2016. As a result of the dissolution of the Senate for an election, the committee ceased to exist and the inquiry lapsed.

1.6 The 45th Parliament commenced on 30 August 2016 and members of this committee were appointed on 1 September 2016. On 13 September 2016, the Senate agreed to the committee's recommendation that this inquiry be re-adopted with a reporting date of 23 November 2016. The Senate also agreed to the recommendation that the committee have the power to consider and use the records of the Environment and Communications References Committee appointed in the previous parliament that related to this inquiry.³

Conduct of the inquiry

1.7 As noted above, the inquiry spans two parliaments—the 44th and 45th—with the conduct of the inquiry interrupted by the dissolution of the Senate prior to the 2016 general election.

Progress during the 44th Parliament

1.8 In accordance with its usual practice, the committee appointed in the previous parliament advertised the inquiry on its website and wrote to relevant individuals and organisations inviting submissions. The date for receipt of submissions was initially 20 November 2015; however, the committee subsequently agreed to extend the submission receipt date to 22 January 2016.

1.9 The committee received 167 submissions, which are listed at Appendix 1. The public submissions are also available on the committee's website at www.aph.gov.au/senate_ec.

1.10 In addition to the published submissions, the committee received a significant number of form letters and other correspondence, the overwhelming majority of which expressed opposition to super trawlers operating in Australian waters. This material is categorised as follows:

- Four different form letters were sent to the committee with 10,833 letters received in total⁴ from Australian residents and residents of other countries.

3 *Journals of the Senate*, 13 September 2016, p. 177.

4 Form letters sent following the dissolution of the Senate on 9 May 2016 were not received by the committee and are not included in the total figure of form letters received. The total number of form letters received should be distinguished from the number of individuals who lodged a form letter, as a large number of individuals lodged multiple form letters. Some individuals who signed one of the four types of form letters also signed at least one of the other three types.

The committee agreed to publish an example of each type of form letter and the number of each type received. A breakdown of the form letters by type is at Appendix 1.

- The committee also received 138 emails containing short statements of support for the inquiry and/or opposition to factory freezer trawlers. This correspondence was available to the committee throughout the inquiry, however, the emails were not published as submissions.

1.11 During the 44th Parliament, the committee conducted a hearing in Hobart on 15 April 2016. A list of witnesses who appeared at the hearing is at Appendix 2.

Progress during the 45th Parliament

1.12 Following the re-adoption of the inquiry on 13 September 2016, the committee published seven additional submissions. The committee also continued the program of public hearings with a public hearing held in Canberra on 1 November 2016.

1.13 As above, further information about the submissions and witnesses who participated in the public hearing is at Appendices 1 and 2 respectively.

Acknowledgement

1.14 The committee thanks all of the individuals and organisations that contributed to the inquiry.

Structure of the report

1.15 This report comprises six chapters, as follows:

- Chapter 1 has outlined introductory matters regarding the referral and conduct of the inquiry. The remaining sections of this chapter provide background information on:
 - the jurisdictional and regulatory arrangements for Commonwealth fisheries, including an overview of the agency responsible for managing these fisheries—the Australian Fisheries Management Authority (AFMA);
 - the fishery that is relevant to this inquiry—the SPF;
 - the factory freezer trawler that is the subject of public concern—the FV *Geelong Star*; and
 - the debate about the operation of the *Geelong Star*, including a brief overview of the positions held by key stakeholders on the management arrangements for the *Geelong Star*. The term 'super trawler' is also discussed.

- Chapter 2 provides an overview of the management arrangements currently applied in the SPF and to the *Geelong Star*.
- Chapter 3 examines the evidence received about the effects and potential effects the *Geelong Star* has, or may have, on the marine environment in the SPF.
- Chapter 4 considers the evidence received about the economic and social consequences of the activities of the *Geelong Star*.
- To the extent that these matters were not discussed in the preceding chapters, Chapter 5 examines the management of the SPF by AFMA, including the science relied on for the management of the fishery, AFMA's decision-making processes and the transparency of the operations of the *Geelong Star*.
- The committee's findings and recommendations are outlined in the final chapter.

Note on references

1.16 References in this report to the *Hansard* of the 15 April 2016 public hearing are to the official version of the transcript. References to the 1 November 2016 public hearing are to the proof version of the transcript. Page numbers may vary between the proof and the official *Hansard* transcripts.

Overview of the regulation of Commonwealth fisheries

1.17 The following paragraphs provide background information on the jurisdictional and regulatory arrangements relevant to Australia's fisheries and the roles and responsibilities of AFMA, which is the agency charged with managing Commonwealth fisheries.

Fishing zones and jurisdictional arrangements

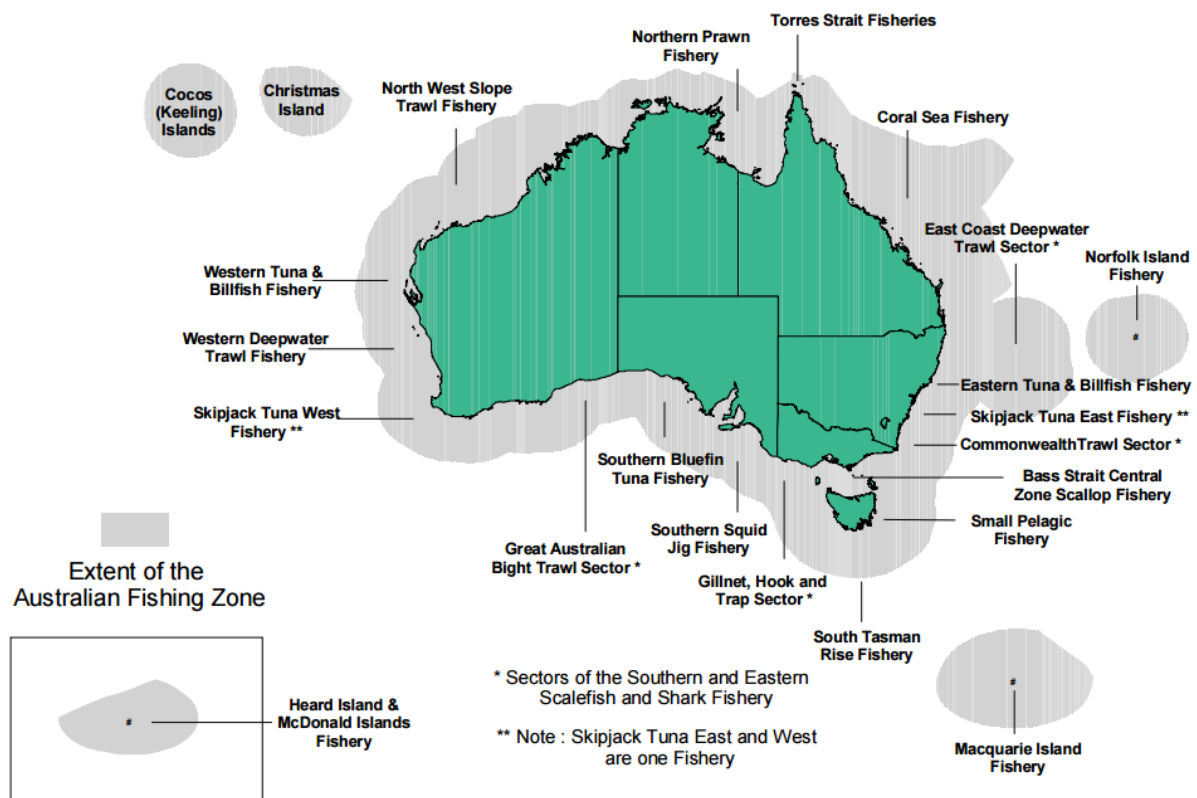
1.18 Australia's marine jurisdiction comprises:

- Australia's territorial sea—which extends to 12 nautical miles from the coast and within which Australia has full sovereignty; and
- the contiguous zone, exclusive economic zone (EEZ) and continental shelf, areas within which the Commonwealth has certain rights. For example, within the EEZ, Australia has 'has sovereign rights to explore and exploit, conserve and manage the natural resources', such as fisheries.⁵

5 Geoscience Australia, 'Australia's jurisdiction', www.ga.gov.au/scientific-topics/marine/jurisdiction/australia (accessed 6 November 2015); and Department of Agriculture and Water Resources, 'The Australian Fishing Zone', www.agriculture.gov.au/fisheries/domestic/zone (accessed 6 November 2015).

1.19 The Australian Fishing Zone (AFZ), which was first declared in 1979, encompasses Commonwealth waters—generally the area covering three nautical miles to 200 nautical miles from the Australian coast and also including the waters surrounding Australia's external territories, such as Heard and Macdonald Islands in the Antarctic.⁶ The area covered by the AFZ is depicted at Figure 1.1.

Figure 1.1: Australian Fishing Zone and AFMA managed fisheries



Source: AFMA, 'The Australian Fishing Zone'.

1.20 The AFZ reflects the Commonwealth's constitutional responsibilities. Paragraph 51(x) of the Constitution provides the Commonwealth with the power to legislate relating to 'fisheries in Australian waters beyond territorial limits' (three nautical miles), leaving the states generally responsible for managing inland fishing and coastal fisheries out to three nautical miles from the low-water mark.⁷

1.21 Under the Offshore Constitutional Settlement between the Commonwealth, states and the Northern Territory,⁸ however, parties can agree to 'adjust these

6 AFMA, 'The Australian fishing zone', www.afma.gov.au/wp-content/uploads/2010/07/fs02_afz.pdf (accessed 6 November 2015).

7 D Borthwick, *Review of Commonwealth fisheries: legislation, policy and management*, December 2012, p. 16.

8 Attorney-General's Department, 'Offshore constitutional settlement', www.ag.gov.au/Internationalrelations/InternationalLaw/Pages/TheOffshoreConstitutionalSettlement.aspx (accessed 6 November 2015).

arrangements by passing management responsibility for particular fisheries exclusively to the Commonwealth or to the adjacent states/Northern Territory; or alternatively, for the Commonwealth and the states/Northern Territory to jointly manage a fishery through a Joint Authority'.⁹ That is, 'state and territory governments generally manage fisheries within their borders and inside three nautical miles from shore, except where Offshore Constitutional Settlement exist between the Commonwealth and state governments'.¹⁰ The Commonwealth has 'generally limited its jurisdiction to commercial fishing, with the state/Northern Territory governments assuming responsibility for recreational fishing'.¹¹

Australian Fisheries Management Authority

1.22 AFMA is a Commonwealth statutory authority responsible for managing Commonwealth commercial fisheries, managing Australian boats fishing on the high seas and deterring illegal foreign fishing in the AFZ.¹² AFMA is also involved in the management of several fisheries jointly with other Australian jurisdictions or other countries.¹³

1.23 AFMA's objectives and functions are outlined in the *Fisheries Administration Act 1991*. In summary, the principal objectives are:

- implementing efficient and cost-effective fisheries management on behalf of the Commonwealth, and ensuring such arrangements and related activities implement Australia's obligations;
- ensuring fishing and related activity is consistent with the principles of ecologically sustainable development,¹⁴ including exercise of the precautionary principle, and in particular the need to have regard to the impact of fishing activities on non-target species and the long term sustainability of the marine environment;

9 D Borthwick, *Review of Commonwealth fisheries: legislation, policy and management*, p. 16.

10 AFMA, *Annual Report 2014–15*, September 2015, p. 14.

11 Department of Agriculture and Water Resources, www.agriculture.gov.au/fisheries/domestic/managing-australian-fisheries (accessed 9 November 2015).

12 AFMA, *Submission 18*, p. 1.

13 AFMA, *Annual Report 2014–15*, September 2015, p. 70.

14 The principles of ecologically sustainable development are outlined in section 6A of the Fisheries Administration Act. The principles are: '(a) decision-making processes should effectively integrate both long-term and short-term economic, environmental, social and equity considerations; (b) if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation; (c) the principle of inter-generational equity—that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations; (d) the conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making; and (e) improved valuation, pricing and incentive mechanisms should be promoted'.

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- maximising the net economic returns to the Australian community from the management of Australian fisheries;
 - ensuring accountability to the fishing industry and to the Australian community in AFMA's management of fisheries resources; and
 - achieving government targets in relation to recovery of AFMA's costs.¹⁵

1.24 The functions provided to AFMA under the Fisheries Administration Act include, among others:

- devising and implementing management regimes that relate to fishing for fish stocks;
- devising and carrying out fisheries adjustment programs, fisheries restructuring programs and exploratory and feasibility programs relating to fishing;
- establishing priorities in respect of research relating to fisheries managed by AFMA and arranging for the undertaking of such research;
- making arrangements in relation to the placement of persons as observers on board boats used for commercial fishing, including foreign fishing boats operating, or intended to operate, outside the Australian fishing zone if such placements are consistent with Australia's international obligations;
- establishing and allocating fishing rights, and establishing and maintaining a register of fishing rights;
- any functions provided under legislation relating to plans of management or recreational fishing; and
- collection, on behalf of the Commonwealth, of payments from person exploiting fisheries resources.¹⁶

1.25 AFMA's Commission is responsible for 'performing and exercising the domestic fisheries management functions and powers' of AFMA. AFMA's Chief Executive Officer, who is also a Commissioner, is responsible for performing and exercising AFMA's foreign compliance functions and powers, and for assisting the Commission, including by giving effect to its decisions.¹⁷

1.26 AFMA's submission explains that it is also required to comply with the Ministerial Direction to AFMA of 2005 to 'the extent it is consistent with the pursuit of its objectives'. AFMA explained that the direction 'seeks to focus AFMA's activities on a number of its objectives, including avoiding overexploitation of resources, economic efficiency (by implementing individual transferable quotas) and

15 *Fisheries Administration Act 1991*, s. 6; AFMA, *Annual Report 2014–15*, p. 18. Additional objectives are outlined in subsection 3(2) of the Act.

16 *Fisheries Administration Act 1991*, s. 7.

17 *Fisheries Administration Act 1991*, ss. 10B(2), 10B(3) and 11(1).

ecologically sustainable development. The direction added that, in pursuing these objectives 'AFMA must take a more science-based approach to decision making'. The *Commonwealth Harvest Strategy Policy*, which is discussed in Chapter 2, arises from this direction.¹⁸

Other departments and agencies

1.27 Although responsibility for fisheries policy falls under the Agriculture portfolio, the Department of the Environment and Energy has responsibilities under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). The EPBC Act requires the Australian government to assess the environmental performance of fisheries and promote ecologically sustainable fisheries management. The department's primary role in fisheries is 'to evaluate the environmental performance of fisheries, including the strategic assessment of fisheries under Part 10 of the EPBC Act; assessments relating to impacts on protected marine species under Part 13; and assessments for the purpose of export approval under Part 13A'.¹⁹

1.28 To export product, fishing operations in Commonwealth waters 'must first be accredited under the EPBC Act'. The Commonwealth Fisheries Association, which is the peak body for the commercial fishing industry in Commonwealth regulated fisheries, explained that the accreditation includes:

...the requirement to monitor, mitigate and report any interactions with protected species. Accreditations are subject to regular reassessment and often include requirements to undertake specific actions to reduce their effects on protected species.²⁰

The Small Pelagic Fishery

1.29 The operation of factory freezer vessels in Australian fisheries is not a new phenomenon—a factory freezer vessel has operated in the Southern and Eastern Scalefish and Shark Fishery since 1988 to catch blue grenadier.²¹ The stakeholder and public concerns about the effects and potential effects of factory freezer vessels relate to vessels that operate, or proposed to operate, in the SPF.

1.30 The location of the SPF is indicated at Figure 1.2. The fishery is divided into east and west geographical sub-areas at latitude 146°30' east.

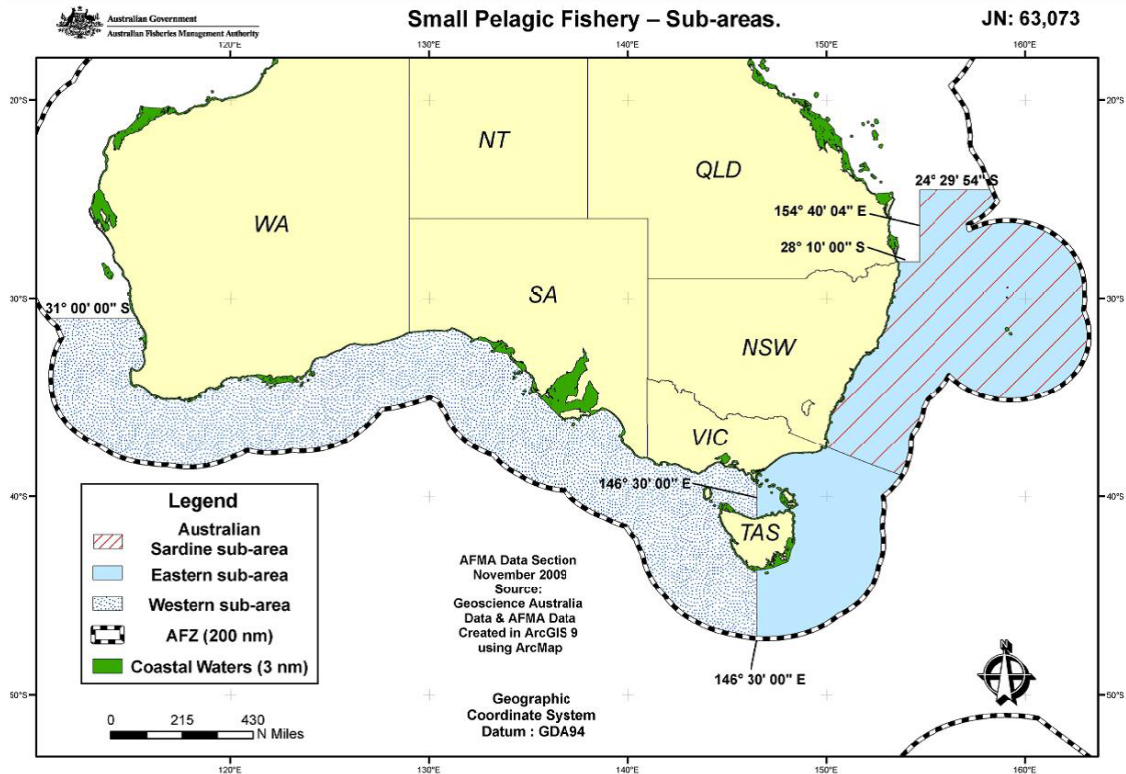
18 AFMA, *Submission 18*, Attachment 9, p. 1.

19 Department of the Environment (now Department of the Environment and Energy), 'Fisheries and the environment', www.environment.gov.au/marine/fisheries (accessed 9 November 2015).

20 Commonwealth Fisheries Association, *Submission 15*, p. 3.

21 Petuna Sealord Deepwater Fishing, *Submission 11*, pp. 2, 11.

Figure 1.2: Map of the Small Pelagic Fishery



Source: Department of Agriculture and Water Resources, *Submission 12*, p. 10.

1.31 In the SPF, commercial fishers target Australian sardines, blue mackerel, jack mackerel and redbait.²² Catches can be used for bait for fishing operations, fish meal for agricultural feed, and human consumption.²³

1.32 Sustained concerns about attempts to bring large mid-water fishing trawlers into the SPF led to the government, in April 2015, banning all boats over 130 metres in length from undertaking fishing related activities within the AFZ.²⁴ Nevertheless, concerns about the operation of the FV *Geelong Star* remain; these concerns are the focus of this inquiry.

History of the SPF

1.33 The history of the SPF is important for understanding concerns about the operation of factory freezer trawlers and how aspects of the management framework have evolved. The SPF's history in recent decades can be divided between fishing operations undertaken by purse seiners and mid-water trawling by traditional vessels, and fishing or interest in fishing through the use of factory freezer trawlers.

22 Department of Agriculture and Water Resources, *Submission 12*, p. 30.

23 Small Pelagic Fishery Management Plan 2009, Explanatory Statement, p. 2.

24 Fisheries Management Amendment (Super Trawlers) Regulation 2015.

Fishing by traditional fishing vessels

1.34 From the mid-1980s to 2000, a large-scale purse seine fishery for jack mackerel operated off the east coast of Tasmania.²⁵ This fishery was known as the Jack Mackerel Fishery, and it was jointly managed by the Tasmanian government and AFMA. Since December 2001, the fishery has been known as the Small Pelagic Fishery, and it became managed solely by AFMA in 2005.²⁶

1.35 In the early 2000s, mid-water trawling was introduced to the SPF. Dr Jeremy Lyle from the Institute for Marine and Antarctic Studies (IMAS) explained that this 'was largely linked to the fact that the purse seine operators were having difficulty locating surface schools of fish'.²⁷ Dr Lyle advised that the 'jury is out...to some extent' on what issues in the fishery caused the decline of the purse seine industry. However, Dr Lyle offered the following observations:

We have looked at the structure of the population, and there is certainly no strong indication that it was overfishing that caused the demise of the purse seine fishery. It was certainly economics...It is a trade-off. They were small vessels or relatively small vessels, but they were taking very large quantities of fish which were then used for fish meal. They were quite restricted in where they could operate, so that was an issue there. Also at that time there were a number of environmental changes. There has been a suggestion that the reason we are not seeing a lot of surface schools of jack mackerel, which is what that fishery was targeting, is related to general oceanographic changes and a kind of disappearance or a reduction in the krill, which was the primary feed for the fish. So they have actually switched and are feeding more on subsurface rather than surface species.²⁸

1.36 Following the shift to mid-water trawling, between 2002 and 2010 a single vessel—the FV *Ellidi*—was dedicated to operating in the fishery.²⁹ Seafish Tasmania explained that the vessel ultimately stopped operating in the SPF and was sold because its operations were unsustainable. It provided the following explanation of the financial pressures that the operation of the *Ellidi*:

25 During the *Margiris* controversy, the then government established an expert panel to consider the environmental impacts of the mid-water trawl freezer vessels with storage capacity greater than 2000 tonnes in the SPF. The 2014 report of that expert panel noted: 'by the mid-1980s the purse seine fishery off the east coast of Tasmania, based out of Triabunna and fishing surface schools of jack mackerel, was the largest fishery in Australia (by weight)'. Annual production peaked at almost 42,000 tonnes in the 1986–87 season. M Lack, P Harrison, S Goldworthy and C Bulman, *Report of the Expert Panel on a Declared Commercial Fishing Activity: Final (Small Pelagic Fishery) Declaration 2012*, October 2014, p. 18.

26 AFMA, Answer to question on notice, No. 37, Senate Rural and Regional Affairs and Transport Legislation Committee, Additional Estimates 2015–16, February 2016.

27 Dr Jeremy Lyle, Senior Research Scientist, Institute for Marine and Antarctic Studies (IMAS), *Committee Hansard*, 15 April 2016, p. 47.

28 Dr Jeremy Lyle, IMAS, *Committee Hansard*, 15 April 2016, p. 42.

29 Seafish Tasmania, *Submission 22*, pp. 1–2, 3 and 12.

Although catches with this vessel were substantial, peaking at around 13,000t in 2005, the business struggled to operate profitably. The low returns from onshore fishmeal production and from supply of onshore frozen fish for bait or tuna feed undermined the potential viability of the fishery.

At this time, it was clear that financially viable operations in the fishery would depend on two factors: the ability to supply the market for human consumption; and to be able to flexibly move throughout the range of the fishery to take advantage of seasonal abundance of the target species, and conversely to avoid dependence on local availability of fish in fishing grounds adjacent to a home port.³⁰

1.37 It is clear that there is some disagreement about what occurred in the jack mackerel purse seine fishery and the Tasmanian mid-water trawl redbait fishery. The Tasmanian Conservation Trust submitted that both of these fisheries 'failed in less than 5 years in two separate events'. It added:

Supporters of the *Geelong Star* and AFMA's current management of the SPF claim that the failure of jack mackerel and redbait fisheries had nothing to do with fishing and were the result of (unspecified) environmental factors. In fact, while there is some evidence to suggest climate change did impact the jack mackerel fisher[y], age size data from catch records suggests that fishing was having an impact...

Even if one was to accept that fishing had no impacts on the failure of the jack mackerel and redbait fisheries, and was solely due to environmental factors, this raises another issue that...has been ignored by AFMA: we do not know or understand what those environmental factors might be. Climate change is having a significant impact on the marine environment off southern Australia and may have impacts on SPF species.³¹

1.38 Mr Jonathan Bryan, who has served on various advisory committees and groups relating to the regulation of the SPF and is the marine spokesperson for the Tasmanian Conservation Trust, subsequently told the committee:

There is a lot to say about the jack mackerel fishery. I think it is reasonable to assume that climate change or some other environmental change was largely responsible for that collapse, but there is no denying that age, size and structure of the stock indicated that fishing was having some sort of impact.³²

1.39 AFMA, however, rejected the description that the redbait fishery 'failed'. It informed the committee that it is not aware of 'any scientific basis for stating that the redbait fishery "failed" or that an apparent failure was caused by overfishing'. In relation to both the redbait and jack mackerel stocks, AFMA added:

30 Seafish Tasmania, *Submission 22*, pp. 1–2.

31 Tasmanian Conservation Trust (TCT), *Submission 143*, p. 5.

32 Mr Jonathan Bryan, Marine Spokesperson, TCT, *Committee Hansard*, 15 April 2016, p. 19.

For example, the *Commonwealth Small Pelagic Fishery: Fishery Assessment Report 2011*...states that 'Recent low catches of Redbait East have been attributed to reductions in local abundance associated with increased water temperatures off eastern Tasmania'. This is supported by more recent advice from the SPF Expert Panel in relation to jack mackerel.³³

Unsuccessful plans to bring factory freezer vessels to fish the SPF

1.40 Although this inquiry focuses on the *Geelong Star*, it follows public debate as to whether other large trawlers should be permitted to fish in Australian waters, such as the debates about the FV *Veronica* (2004) and the FV *Margiris* (2012), then known as the FV *Abel Tasman*.

1.41 The *Veronica* is a 106-metre factory freezer vessel that an Irish company sought to bring to the SPF. A statutory management plan was not in place for the SPF at the time; consequently, AFMA froze boat nominations in the fishery while management arrangements were enhanced. This 2004 decision 'effectively precluded the entry of the FV *Veronica* since the vessel could not be nominated against an SPF fishing permit'.³⁴

1.42 The next factory freezer vessel that was proposed was the *Margiris*, a 143-metre factory trawler with a freezer capacity of 6200 tonnes. As part of a joint venture between Seafish Tasmania and the Dutch fishing company Parlevliet & Van der Plas BV, it was planned that the *Margiris* would fish Seafish Tasmania's quota fishing rights in the SPF. The *Margiris* arrived at Port Lincoln in August 2012. On 5 September 2012, the *Margiris* was registered as an Australian-flagged vessel and renamed the *Abel Tasman*.³⁵

1.43 Broad public concerns about the proposal for the *Margiris* to fish in the SPF resulted in legislative changes and ministerial decisions that prevented the ship from fishing in Australian waters. In September 2012, the *Environment Protection and Biodiversity Conservation Amendment (Declared Commercial Fishing Activities) Act 2012* was passed. The Act gave the Minister for the Environment the power to establish an independent expert panel to conduct an assessment into the potential environmental impacts of a declared commercial fishing activity and to prohibit the declared commercial fishing activity while the assessment is undertaken.

1.44 In November 2012, then Minister for the Environment, the Hon Tony Burke MP, declared that large-scale mid-water trawl freezer vessels, such as the *Margiris*, could not fish in the SPF for two years while an independent expert panel considered

33 AFMA, Response to *Submission 143*, Attachment A, p. 3.

34 M Lack et al, *Report of the Expert Panel on a Declared Commercial Fishing Activity: Final (Small Pelagic Fishery) Declaration 2012*, p. 20.

35 M Lack et al, *Report of the Expert Panel on a Declared Commercial Fishing Activity: Final (Small Pelagic Fishery) Declaration 2012*, p. 21.

the impact its activities would have on fisheries and the environment.³⁶ Following this determination, the *Margiris* left Australian waters in March 2013.³⁷ Seafish Tasmania unsuccessfully sought judicial review of the Minister's decisions.³⁸

1.45 Industrial-scale fishing activity in the SPF was not proposed again until the *Geelong Star*. At present, only the *Geelong Star* and two other purse seine vessels are active in the fishery.³⁹

The FV *Geelong Star*

1.46 The FV *Geelong Star* commenced fishing in the SPF on 2 April 2015.⁴⁰ The *Geelong Star* is a 3181 tonne factory freezer vessel with a hold capacity of 1061 tonnes. At 95.18 metres, the *Geelong Star* is the longest fishing vessel in the AFZ.⁴¹

Figure 1.3: The FV Geelong Star



Source: AFMA, *Submission 18*, Attachment 5, p. 1.

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- 36 The Hon Tony Burke MP (Minister for Sustainability, Environment, Water, Population and Communities), 'Super trawler banned while expert assessment is carried out', *Media Release*, 19 November 2012.
- 37 ABC News, 'Super trawler sails off from controversy', 6 March 2013, www.abc.net.au/news/2013-03-06/super-trawler-sails-off-from-controversy/4556560 (accessed 20 January 2016).
- 38 *Seafish Tasmania Pelagic Pty Ltd v Burke, Minister for Sustainability, Environment, Water, Population and Communities (No 2)* [2014] FCA 117.
- 39 ABARES, *Fishery status reports 2016*, September 2016, p. 98.
- 40 Department of Agriculture and Water Resources, *Submission 12*, p. 12; AFMA, 'Geelong Star meets AFMA requirements on arrival into Australia', *Media Release*, 1 April 2015.
- 41 Department of Agriculture and Water Resources, *Submission 12*, p. 3.

1.47 The operation of the *Geelong Star* in the SPF is a joint enterprise between Seafish Tasmania and Dutch company Parlevliet & Van der Plas BV and its Australian subsidiary, Seafish Tasmania Pelagic Pty Ltd.⁴² The fish caught by the *Geelong Star* is shipped to export markets, usually in West Africa.⁴³

1.48 AFMA was notified that Seafish Tasmania had nominated the *Geelong Star* to fish its concessions in the SPF on 12 February 2015. Following registration of the *Geelong Star* as an Australian-flagged boat by the Australian Maritime Safety Authority,⁴⁴ AFMA confirmed that the vessel met its requirements. The *Geelong Star* commenced fishing in the SPF on 2 April 2015. As the *Geelong Star* is less than 130 metres in length, it is not affected by the ban introduced by the government in April 2015.

1.49 The following timeline (Figure 1.4) outlines key events following the arrival of the *Geelong Star*, some of which will be elaborated on elsewhere in the report.

Figure 1.4: Timeline of key events relating to the Geelong Star

<i>Date</i>	<i>Event</i>
12/02/2015	AFMA is notified that Seafish Tasmania Pty Ltd had nominated the <i>Geelong Star</i> to fish its concessions in the SPF.
2/04/2015	The <i>Geelong Star</i> commences fishing in the SPF after AFMA confirms that the vessel met its requirements. The nomination followed registration of the <i>Geelong Star</i> as an Australian-flagged boat by the Australian Maritime Safety Authority.
21/04/2015	AFMA announces that the operators of the <i>Geelong Star</i> had notified it of two seal mortalities and four dolphin mortalities.
8/05/2015	AFMA bans night-time fishing by the <i>Geelong Star</i> and implements a requirement that, if a dolphin mortality occurs in a management zone within the fishery (there are seven zones), that zone will be closed to fishing by mid-water trawl method for six months. The explanatory material that accompanied the instrument imposing the ban noted that, in two trips since 19 April 2015, eight common dolphin mortalities during night-time fishing were reported by the operators of the <i>Geelong Star</i> .
17/06/2015	Following a dolphin mortality, AFMA closes a management zone (zone 6, which is off the coast of southern New South Wales and eastern Victoria) for six months.
17/09/2015	AFMA ends the night-time fishing ban.
25/11/2015	The Senate negatives a motion to disallow the legislative instrument that ended the night-time fishing ban.

42 Small Pelagic Fishery Industry Association, *Submission 27*, p. 22.

43 Seafish Tasmania, *Submission 22*, p. 12.

44 Previous names for the vessel were the FV *Naeraberg* and the FV *Dirk Dirk*. Dr James Findlay, Chief Executive Officer, AFMA, *Senate Rural and Regional Affairs and Transport Legislation Committee Hansard*, Estimates, 23 February 2015, p. 78.

27/11/2015	The government announces that the commercial and recreational fishing sectors had recommenced negotiations on fishing operations in the SPF.
17/12/2015	Zone 6, which was closed on 17 June 2015, re-opens. AFMA confirms that there have been no dolphin mortalities in the SPF since the closure of zone 6.
1/12/2015	As part of the negotiations between the commercial and recreational fishing sectors, Seafish Tasmania voluntarily agrees that the <i>Geelong Star</i> will not fish in SPF management zone 7 until the end of the season on 30 April 2016.
29/01/2016	AFMA announces that the <i>Geelong Star</i> will not fish again until additional mitigation measures to minimise any further interactions with seabirds are agreed to by AFMA. The decision follows 'a higher than expected level of albatross mortalities' on the vessel's previous fishing trip in the SPF.
1/02/2016	The additional mitigation measures relating to seabirds are announced by AFMA. The <i>Geelong Star</i> recommences fishing.
11/02/2016	A whale shark ran into the outside of the vessel's net and became caught by two of its fins. On 19 February, AFMA issues a statement noting that its scientific observer on board the <i>Geelong Star</i> reported that the whale shark was subsequently freed from the net and swam away without difficulty. AFMA later advises (on 24 February and 17 March) that the whale shark spent an estimated 3 minutes, 35 seconds out of the water while, with the use of a crane, it was brought onto the boat, freed and released into the water.
25/02/2016	The government indicates progress has been made in negotiations between recreational and commercial fishing interests about the operations of the <i>Geelong Star</i> , with Seafish Tasmania offering voluntary undertakings about areas where and dates when the vessel will not fish. However, by April the Australian Recreational Fishing Foundation had decided not to participate in further discussions.
20/04/2016	AFMA announces that more than one million square kilometres of additional offshore waters near southern and eastern Australia will open to mid-water trawling in the SPF, allowing the <i>Geelong Star</i> to catch its fishing quota in a greater area.
1/05/2016	The voluntary offer made by Seafish Tasmania in February 2016 comes into effect. At Seafish Tasmania's request, AFMA will monitor and report on compliance with the agreement and will report on bycatch of gamefish.
31/10/2016	AFMA releases a revised vessel management plan for the <i>Geelong Star</i> .

Sources: Department of Agriculture and Water Resources, *Submission 12*, p. 12; Mr Allan Hansard, Managing Director, Australian Recreational Fishing Foundation, *Committee Hansard*, 15 April 2016; various AFMA media releases and website statements (www.afma.gov.au); and media releases issued by Senator the Hon Anne Ruston, Assistant Minister for Agriculture and Water Resources on 27 November 2015, 1 December 2015 and 25 February 2016.

Key stakeholder positions on the *Geelong Star*

1.50 Since it commenced operating, AFMA has initiated various regulatory measures in response to mortalities of protected species caused by the operations of the *Geelong Star*. Various stakeholders are also concerned about the effect of the trawler's operations on other commercial fishing operations and recreational fishing activities. Both the fishing activities of the *Geelong Star* and the regulatory approach taken by AFMA have attracted controversy.

1.51 Environmental non-government organisations expressed opposition to the activities of the *Geelong Star* and the approach taken to managing the SPF. Environment Tasmania and the Australian Marine Conservation Society both called on the government to 'enact a permanent ban on the operation of factory freezer trawlers in the Small Pelagic Fishery'.⁴⁵ The Conservation Council SA provided a list of recommendations regarding potential localised depletion, adverse environmental effects, how to minimise impacts on protected species and the presence of AFMA observers on the vessel. The Conservation Council SA called for vessels such as the *Geelong Star* to be banned from the fishery 'until management strategies', including the recommendations outlined in its submission, 'are in place to effectively minimise impacts on protected species'.⁴⁶

1.52 Recreational fishing interests are another key stakeholder group. Submitters in this group expressed concern about potential repercussions for the Australian recreational fishing sector from the operations of the *Geelong Star*. The Australian Recreational Fishing Foundation (ARFF) called for a moratorium on 'industry scale' fishing in areas of the SPF that are of concern to the recreational fishing sector. The ARFF argued that this moratorium should remain in place 'until a comprehensive assessment has been conducted to determine whether industrial scale fishing of the SPF is the highest and best use of the SPF, in our nation's interest and whether the small pelagic fishery should be commercially fished at all'.⁴⁷

1.53 Seafish Tasmania, the operator of the *Geelong Star*, argued that the use of a factory freezer trawler such as the *Geelong Star* is the only way that operations in the SPF can be commercially viable. Seafish Tasmania also advised that, over 11 years, it has worked within the regulatory arrangements to assist in developing management plans and strategies 'that support the sustainable management of the SPF'.⁴⁸ Seafish Tasmania added:

The current management regime in the SPF, and in particular the conditions applied to the *Geelong Star*, are extremely strict. Clearly, they are designed

45 Environment Tasmania, *Submission 145*, p. 2; Australian Marine Conservation Society, *Submission 146*, p. 2.

46 Conservation Council SA, *Submission 148*, p. [7].

47 Australian Recreational Fishing Foundation, *Submission 134*, p. 2.

48 Seafish Tasmania, *Submission 22*, p. 15.

to provide a high degree of public confidence that the operations of the vessel are being closely monitored and managed.⁴⁹

1.54 Seafish Tasmania concluded:

The company has made substantial investments in supporting scientific surveys and more recently in bringing freezer trawlers from Europe to catch our quota and to produce high quality fish for human consumption. It is time to let us get on with the job of catching our quota.⁵⁰

1.55 Seafish Tasmania and the Small Pelagic Fishery Industry Association (SPFIA) also argued that the science-based management of the fishery and the statutory fishing rights associated with the vessel should be respected. For example, the SPFIA submitted:

The impact of the continued political interventions in the management of the Small Pelagic Fishery is being felt well beyond the confines of this Association. Although SPF quota holders are effectively the primary target of the political attacks, there is widespread erosion of industry confidence in the ability of AFMA to manage fisheries in an independent, non-political and science based manner. Consequently, industry confidence in the quality and security of their Statutory Fishing Rights is being steadily undermined.

In these destabilising circumstances, it should not be surprising if industry were to take a shorter term view of their investments reflecting the increased political risk being faced. This is exactly the situation that Government sought to avoid by providing the fishing industry with well defined, long term secure fishing rights to inspire operators to take economically responsible decisions and to look after the marine resources on which their businesses depend.⁵¹

1.56 Other commercial fishing interests urged the committee and other interested stakeholders to separate concerns about factory freezer vessels operating in the SPF, where resource sharing issues involving recreational fishers are important, and the operation of factory freezer trawlers in other fisheries. Petuna Sealord Deepwater Fishing, which has operated a factory freezer vessel in the blue grenadier fishery since 1988, urged the committee to separate 'what we see are two dissimilar issues', namely concerns about 'super trawlers' in the SPF and the operation of factory freezer trawlers elsewhere. It explained:

The current community concern which has led to this inquiry is not necessary driven by the size or freezing capacity of the vessel or the science of the fishery, as evidenced in the blue grenadier fishery, but centres around resource sharing and access to a fish species that recreational fishers

49 Seafish Tasmania, *Submission 22*, p. 14.

50 Seafish Tasmania, *Submission 22*, p. 15.

51 Small Pelagic Fishery Industry Association, *Submission 27*, p. 35.

consider is a significant driver in maintaining healthy populations of key recreational species.⁵²

1.57 The positions held by various stakeholders and the various arguments they presented to the committee to substantiate their positions will be expounded in the following chapters. The final section of this chapter discusses the meaning of the commonly-used term 'super trawler' and the implications of the term for policy debate.

Meaning of 'super trawler'

1.58 The terms of reference for this inquiry uses the term 'large-capacity fishing vessels' to indicate the types of vessels that the inquiry is to target. The terms of reference also note that these vessels are commonly known as 'super trawlers'. Neither term, however, is defined.

1.59 The lack of a definition is useful in that the scope of the inquiry can be as broad as the committee considers is necessary. The term 'super trawler', however, is vague and some stakeholders questioned what trawlers are actually included in the scope of this term. Although it appears to be accepted that factory freezer trawlers greater than 130 metres in length are 'super trawlers', it is less clear whether it is appropriate to apply this term to other factory trawlers that are smaller than this size.

1.60 The CSIRO noted that the term 'super trawler' has only been used in Australia since the debate regarding the *Margiris*, despite factory fishing vessels having operated in Australian waters for almost 20 years.⁵³ Although the term was commonly used in public debate, including in government announcements, the initial declaration that prohibited the *Margiris* from operating in the SPF did not use the term.⁵⁴

1.61 The first use of the term 'super trawler' in a legislative sense occurred in April 2015, when the government made the Fisheries Management Amendment (Super Trawlers) Regulation 2015. This regulation banned all boats over 130 metres

52 Petuna Sealord Deepwater Fishing, *Submission 11*, pp. 2, 11. 2.27 Similarly, Austral Fisheries outlined the various freezer vessels it currently operates, and has operated previously, in the sub-Antarctic toothfish and icefish fisheries, in the Northern Prawn Fishery and on the high seas (in the Indian Ocean). The largest of these vessels was 87 metres long. Austral argued that the freezer vessels it operates or has operated previously were 'essential from an efficiency, sustainability, safety, and commercial viability perspective'. See Austral Fisheries, *Submission 14*, p. 6.

53 CSIRO, *Submission 23*, p. 6.

54 In November 2012, then Environment Minister, the Hon Tony Burke MP issued the Final (Small Pelagic Fishery) Declaration 2012, which prohibited commercial fishing activities that: (a) occur in the SPF; (b) use the mid-water trawl method; and (c) use a vessel which is greater than 130 metres in length, has an on board fish-processing facility and has storage capacity for fish or fish products in excess of 2000 tonnes. Although the term super trawler was used when the ministerial declaration was announced, the declaration and the explanatory statement did not use the term (the explanatory statement for the declaration used 'large mid-water trawl freezer vessel').

in length from undertaking fishing related activities within the Australian fishing zone.⁵⁵ In a media release announcing the government's intention to impose the ban, it was explained that the definition was based on that used by the previous government and environmental non-governmental organisations.⁵⁶ Then Parliamentary Secretary to the Minister for Agriculture, Senator the Hon Richard Colbeck, subsequently added that the decision:

...was based on the definition of 'supertrawler' that was effectively in the public arena at that time and the broader debate around what the definition of supertrawler might be.⁵⁷

1.62 The *Geelong Star* is 95 metres long and, therefore, is not covered by the 130-metre definition of super trawler used for the ban. Nevertheless, the *Geelong Star* has commonly been referred to as a super trawler, including by the media and state governments.⁵⁸ In addition, some of the concerns expressed by groups that opposed the *Margiris* have similarly been applied to the *Geelong Star*. Some submitters also argued that there is only a marginal difference in the quota allocated to the *Abel Tasman*, which was banned, and vessels such as the *Geelong Star* that are not.⁵⁹ Other submitters, however, maintain that 'there is no correlation between vessel size and fishing power'.⁶⁰

1.63 On this issue, Mr Allan Hansard, Managing Director, Australian Recreational Fishing Foundation, commented: 'It is not necessarily the size of the boat; it is that intensity that we need to really focus on in this case'.⁶¹

1.64 From the perspective of the Stop the Trawler Alliance, which is an alliance of environment, fishing and tourism organisations established in 2012 in response to the *Margiris*, the principal issue is that a factory freezer vessel is operating in the SPF, not that a vessel of a certain size is operating.⁶²

55 Fisheries Management Amendment (Super Trawlers) Regulation 2015.

56 Senator the Hon Richard Colbeck, 'Supertrawlers to be banned from Australian waters', *Media Release*, 24 December 2014.

57 Senator the Hon Richard Colbeck, *Senate Rural and Regional Affairs and Transport Legislation Committee Hansard*, Budget Estimates 2015–16, 26 May 2015, p. 55.

58 The Hon Leon Bignell MP (SA Minister for Agriculture, Food and Fisheries), 'Serious concerns about super trawler near SA waters', *Media Release*, 24 June 2015, http://pir.sa.gov.au/alerts_news_events/news/fisheries_and_aquaculture/serious_concerns_about_super_trawler_near_sa_waters (accessed 6 November 2015).

59 Name withheld, *Submission 52*, p. 1.

60 Western Australian Fishing Industry Council, *Submission 7*, p. 1.

61 Mr Allan Hansard, Managing Director, Australian Recreational Fishing Foundation, *Committee Hansard*, 15 April 2016, p. 32.

62 Mr Adrian Meder, Marine Campaigns Officer, Australian Marine Conservation Society, *Committee Hansard*, 15 April 2016, p. 15.

1.65 In their evidence to this inquiry, key stakeholders differed in their preferred terminology.

1.66 Mr Malcolm McNeill, the Chief Executive Officer of Petuna Sealord Deepwater Fishing, which operates a factory freezer trawler in the Southern and Eastern Scalefish and Shark Fishery, suggested that the term 'super trawler' is emblematic of a debate that is not well informed. He explained:

The terminology of 'supertrawler'—the word itself—is quite damaging. I do not believe that it gives a real indication of what is really happening out there and what big boats are about et cetera. Personally, I think there is misinformation out there and utilising the word 'supertrawler' is quite emotive. There is nothing really that super about bigger boats; they are just bigger.⁶³

1.67 The Northern Territory Department of Primary Industry and Fisheries commented on the term 'large capacity', which is used in the terms of reference. The department submitted:

The operational power of the vessel, the size and design of the gear permitted for use and the skill and experience of the crew operating the vessel all influence fishing capability and environmental risk. This needs to be differentiated from the seafaring capability and interior design of a vessel and its ability to process and store catch.⁶⁴

1.68 The CSIRO used the term 'factory fishing vessel', which it defined as follows:

...large fishing vessels, usually stern trawlers, equipped for processing and freezing fish at sea. They differ from standard trawlers in their capacity to process and freeze the catch on board, typically to improve quality and thus value of the product (unloading finished product ready to be shipped to market or be exported worldwide).⁶⁵

1.69 The submission from AFMA used 'factory freezer mid-water trawler' to describe the *Geelong Star*. The term refers to both the processing and freezing capabilities of the ship and the fishing method used.⁶⁶

1.70 To avoid confusion with the definition of super trawler provided by the Fisheries Management Amendment (Super Trawlers) Regulation 2015, this report will not use the term super trawler to collectively refer to vessels such as the *Margiris* and the *Geelong Star*. This report uses the term 'factory freezer trawler', based on the CSIRO's description of a factory fishing vessel outlined above.

63 Mr Malcolm McNeill, Chief Executive Officer, Petuna Sealord Deepwater Fishing, *Committee Hansard*, 15 April 2016, p. 38.

64 Northern Territory Department of Primary Industry and Fisheries, *Submission 73*, pp. 3–4.

65 CSIRO, *Submission 23*, p. 6.

66 AFMA, *Submission 18*, p. 5.