

Chapter 6

Committee view and recommendations

6.1 The use of factory freezer trawlers in the Commonwealth Small Pelagic Fishery (SPF) has been the subject of protracted controversy. This inquiry follows the arrival of the FV *Geelong Star* in the SPF in 2015; however, the origin of the debate about large factory freezer trawlers predates that vessel. It is clear that recent memory of the unsuccessful plan to bring the FV *Margiris* (also known as the *Abel Tasman*) to exploit the fishery still resonate and influence the views held by many regarding the purposes for which the SPF should be used and how effectively the fishery is being managed.

Analytical framework used for the inquiry

6.2 In undertaking this inquiry, the committee's key objective was to ensure the SPF is managed in a sustainable way that meets the needs of current users and future generations. The inquiry has provided an opportunity to air concerns and test evidence regarding a resource managed by the government on behalf of the entire Australian community, not just a few commercial interests.

6.3 As previous attempts to bring factory freezer trawlers to fish the SPF were unsuccessful, evidence about the effects of such vessels is limited to the operations of the *Geelong Star* during the 2015–16 season and part of the 2016–17 season. Although the committee received detailed evidence regarding operations and management arrangements in the fishery, the limited period during which the *Geelong Star* has operated presents difficulties when assessing claims regarding environmental, social and economic impacts. Nevertheless, fisheries management will encounter unknowns, such as scientific uncertainty and yet to be realised economic impacts. The likelihood of incomplete information is recognised by the precautionary principle, which is applied to fisheries management. Accordingly, decisions taken regarding the SPF can be assessed against the precautionary principle.

Principal concerns

6.4 Before outlining the committee's views, it is useful to note that, to some extent, the Australian government shares concerns about the operation of large factory freezer trawlers. In April 2015, the government banned all boats over 130 metres in length from undertaking fishing related activities in the Australian Fishing Zone. This ban prevents vessels such as the *Margiris* from operating in Australia. The *Geelong Star*, however, is not affected. This is despite the similar risks that the *Geelong Star* presents to protected marine life and the populations of other non-quota species.

6.5 In conducting this inquiry, the committee has identified the following key issues.

Deaths of protected species

6.6 The threat that the *Geelong Star* presents to species protected under the EPBC Act is an issue that is of significant concern to members of the public and the committee. According to AFMA's records, no protected species were recorded as injured or killed in the SPF in the year before the *Geelong Star* arrived. In the first quarter the *Geelong Star* operated (1 April to 30 June 2015), 26 protected species were killed. Over the 18 months since the *Geelong Star* commenced operating, 83 protected species were killed in the SPF.¹

6.7 The disquiet about the deaths and other interactions with protected species among conservationists and others who care deeply about Australia's marine life has not lessened, as the anger in February 2016 over the temporary capture of a whale shark demonstrates. The use of excluder devices and other mitigation techniques cannot address the fundamental problem; namely, that the massive net towed by the *Geelong Star* means the vessel cannot target its quota species selectively. Avoiding mortalities of protected species and the bycatch of other species, including species highly valued by other fishing interests, is impossible.

State of scientific knowledge underpinning management decisions

6.8 Of particular interest to the committee are the total allowable catches set for the fishery and the risk of localised depletion arising from the activities of the *Geelong Star*.

6.9 The committee was advised that the biomass of some quota species in the SPF is highly variable between years and that this has implications for obtaining reliable biomass estimates. Yet the science underpinning the total allowable catch set for many quota species is out-of-date. In the period from the 2004 fishing season to date, the SPF was managed without DEPM surveys for jack mackerel and redbait in the western sub-area of the SPF—the first surveys will occur in the current season (for jack mackerel west) and in the 2017–18 season for redbait west. For blue mackerel west, the last DEPM survey occurred in the 2005 season and the next survey is not scheduled until 2019–20. Similarly, for redbait in the eastern sub-area, the last DEPM surveys occurred in 2005 and 2006—an update is not scheduled until 2018–19.

6.10 The status of the science underpinning management decisions in the SPF is concerning as the outdated DEPM surveys means that AFMA cannot know the stock status of each of the species targeted by the vessel when making decisions about total allowable catch. Furthermore, with climate change having a significant and ongoing effect on fisheries and the marine environment more generally, up-to-date science is particularly essential for AFMA to make informed decisions about the sustainable

1 AFMA, *Submission 170*, p. 1.

management of Australia's fisheries. Rigorous scientific stock status assessments will likely be needed more frequently than in the past to ensure that fisheries management decisions and techniques are appropriate for a changing climate.

6.11 Unfortunately, the committee is also not satisfied that there are effective measures in place for detecting localised depletion or managing the risk that it presents. Despite the vast size of the SPF, it is curious why AFMA allowed the *Geelong Star* to focus on operating in a relatively small section of the fishery. In particular, the area off the south-east coast of NSW appears to be frequented by the vessel. Communities near this area depend on economic activity from recreational fishing and tourism. The committee considers that AFMA and the operator of the *Geelong Star* are risking the reputation of the fishing grounds in this area. It is acknowledged that more of the fishery is now open for mid-water trawling compared to when the *Geelong Star* commenced operating; nonetheless, the committee has not been presented with evidence to suggest that the *Geelong Star* is now distributing its operations throughout the fishery.

Key information is kept from the public

6.12 A shroud of secrecy surrounds many aspects of the vessel's operations. The public are prohibited from knowing the location of the vessel when it is in the fishery, what is being caught and exactly where the deaths of protected species are occurring. The total value of the fishery and of the fish caught is deemed confidential.

6.13 When information about the *Geelong Star* is released, it is also difficult for the public to trust it. As AFMA acknowledged, the industry has spread false information about incidents involving the vessel.² In addition, unlike other Commonwealth fisheries, the SPF is being managed in a way that sidelines recreational fishers, conservationists and the public from the decision-making process.

6.14 The Australian public is the key stakeholder in the fishery. The public owns the fishery resources, help funds the regulation of the fisheries and will be left with the consequences of any mismanagement that occurs. The excessive confidentiality and approach to consultation threatens the legitimacy of the management regime.

Overall approach to managing the Geelong Star and the Small Pelagic Fishery

6.15 The committee acknowledges the challenges AFMA faces in managing Commonwealth fisheries. Overall, AFMA appears to have a good record—its Chief Executive Officer, Dr James Findlay, told the committee that no fish stocks solely managed by AFMA are considered to be overfished and the economic benefits from fishing activity are increasing.³ It must be said, however, that AFMA has a poor

2 Dr James Findlay, Chief Executive Officer, Australian Fisheries Management Authority (AFMA), *Committee Hansard*, 1 November 2016, p. 21.

3 Dr James Findlay, AFMA, *Committee Hansard*, 1 November 2016, p. 10.

record with respect to managing the *Geelong Star*. It is difficult to believe that AFMA is undertaking a precautionary approach to managing the SPF when AFMA has, on multiple occasions, needed to react to various events involving the vessel by implementing further measures.

6.16 For example, after the first month of fishing by the *Geelong Star*, AFMA was forced to respond to what it recognised was an unacceptable number of dolphin mortalities. The additional regulatory measures implemented included a short-lived night-time fishing ban and the closure of a management zone for six months. In January 2016, this responsive approach was repeated when AFMA required additional mitigation measures for seabirds following a high number of albatross mortalities. What will be next? It is clear that the *Geelong Star* will continue to kill protected species. Effective mitigation measures should have been in place before the *Geelong Star* was allowed to start fishing.

6.17 The *Geelong Star* has also exposed flaws in the overall regulatory framework governing Commonwealth fisheries. In the face of significant stakeholder pressure, the Assistant Minister for Agriculture and Water Resources found it necessary to convene meetings with recreational fishing interests outside of any meetings or consultation arrangements managed by AFMA. Furthermore, rather than resource sharing issues being addressed by formal management arrangements, a voluntary undertaking lasting one season is being used. The committee does not believe this arrangement will be maintained.

6.18 It is also noteworthy that AFMA has confirmed that the vessel's operator promptly breached its own voluntary undertaking by fishing within 20 nautical miles of Bermagui on the 13 May 2016, one day before the Canberra Game Fishing Club's annual yellowfin tournament.⁴ The arguments presented by industry and AFMA that the *Geelong Star* is subject to strict management arrangements and is strongly monitored were already questionable. However, the committee considers that the impression of a rigorous compliance regime such claims are intended to convey collapse entirely when it is evident that the vessel's operators do not even comply with their own voluntary offers. In addition, such lines of argument merely raise questions about the effectiveness of the monitoring arrangements in place for vessels operating in other fisheries.

4 AFMA, 'Seafish Tasmania voluntary offer', www.afma.gov.au/fisheries/small-pelagic-fishery/seafish-tasmania-voluntary-offer/ (accessed 21 October 2016).

Negligible economic benefits

6.19 All the issues outlined above exist while it is clear that the economic benefits achieved from allowing the *Geelong Star* to operate are marginal. Few Australians are employed on the vessel and the key positions are performed by subclass 457 visa holders. Although the total value of the fish caught is kept confidential, the fish targeted are of low value. The vessel is foreign-owned, meaning profits from the extraction of an Australian resource are distributed overseas. Yet, significant expense is incurred to allow the vessel to fish here—both in terms of the investment in science required to inform decisions about the SPF and the direct costs associated with regulating the fishery.

6.20 Given the limited financial benefits the operator of the *Geelong Star* likely enjoys at present, the committee considers it is inevitable that the operator will push for the total allowable catch in the SPF to be increased significantly, along with the removal of key regulatory restrictions. Perhaps more vessels will be brought to exploit the fishery. The committee questions whether AFMA will cope with pressure from industry to allow for more intensive operations.

Recommendations

6.21 The fishing industry tried and failed to bring two large factory freezer trawlers to the SPF in the past—first the FV *Veronica* in 2004 and then the FV *Margiris* in 2012. Like the previous vessels, the *Geelong Star* does not have a social licence to operate in Australian waters. The Australian government should act to protect the marine environment and the interests of other fishers by ejecting the *Geelong Star* from Australia's SPF.

Recommendation 1

6.22 The committee recommends that the Australian government ban all factory freezer mid-water trawlers from operating in the Commonwealth Small Pelagic Fishery.

6.23 To ensure lessons are learnt from the inadequate consultation undertaken with key fishing interests about the management arrangements for the *Geelong Star*, the committee makes the following two additional recommendations.

6.24 The committee notes that the government has yet to act on its 2013 election commitment to establish a National Recreational Fishing Council, despite a public statement in July 2015 indicating that the process was being finalised. The committee also considers that the government should expedite its 2016 election commitment to introduce legislation requiring AFMA to consider the interest of all users of fisheries, so the Parliament and stakeholders can begin to scrutinise this proposal and consider what outcomes it will achieve.

Recommendation 2

6.25 The committee recommends that the Australian government expedite its 2013 election commitment to appoint a National Recreational Fishing Council. An Agriculture and Water Resources portfolio minister should chair the Council.

Recommendation 3

6.26 The committee recommends that the government expedite its 2016 election commitment to amend the *Fisheries Management Act 1991* to specify that the Australian Fisheries Management Authority is required to consider the interests of all users of fisheries including recreational, Indigenous and commercial fishers.

6.27 In recognition of the need for a legal and orderly implementation of a ban on factory freezer trawlers from operating in the SPF, the committee makes the following recommendations with a mind to immediate implementation.

Recommendation 4

6.28 To enhance public confidence in the management of Australian fisheries, the committee recommends that the Australian Fisheries Management Authority publish, on a regular basis, further information about fishing activity in the Small Pelagic Fishery. This information should include:

- the total value of the fishery;
- quantity of catch (by species);
- the amount of bycatch caught and discarded by species; and
- the areas where fishing activity is taking place.

6.29 Publication of this information should occur:

- despite any claims from industry that particular information is commercially sensitive or should not be disclosed, although a short delay in publication may be appropriate to accommodate concerns about the commercial sensitivity of particular information; and
- regardless of any additional disclosures the operator of the FV *Geelong Star* may provide as part of a voluntary undertaking.

Recommendation 5

6.30 As the visual identification of protected species is critical for their protection, the committee recommends that the Australian Fisheries Management Authority restrict mid-water trawling in the Small Pelagic Fishery to daylight hours.

Recommendation 6

6.31 The committee recommends that the Australian Fisheries Management Authority require estimates of spawning biomass based on the daily egg production method to be obtained for all quota fish populations in the Small Pelagic Fishery more frequently than the current arrangements. The cost of these surveys is to be recovered from industry.

Senator Larissa Waters
Chair

