

Rural and Regional Affairs and Transport Committee
ANSWERS TO QUESTIONS ON NOTICE
Supplementary Budget Estimates October 2012
Agriculture, Fisheries and Forestry

Question: 32

Division/Agency: Sustainable Resource Management Division/Australian Fisheries Management Authority

Topic: Management Advisory Committees

Proof Hansard page: 75

Senator SIEWERT asked:

Senator SIEWERT: How often does the Commission accept the recommendations of a MAC, as opposed to changing the recommendation of a MAC?

Dr J Findlay: We make hundreds of decisions a year, including some 50-plus CAC decisions. With the majority of those you would generally find concurrence between the regional assessment group advice, MAC advice, AFMA management advice and what the AFMA commission ultimately decides.

On a number of issues—I do not have the exact statistics for you; if you would like to specify the period we can go back and give you those statistics—

Senator SIEWERT: Okay, I will put the question on notice.

Dr J Findlay: The AFMA commission does deviate from any number of those sets of advice, including in situations where all three groups are disagreeing with the ultimate decision of the AFMA commission. It is not a fait accompli that if a management advisory committee says, 'Do X,' that the AFMA commission will just rubberstamp that. It is far from that; in fact, there is very active discussion on all of these issues. It is not unusual for us, again, to disagree with one or more of the groups that have provided advice through the process.

Senator SIEWERT: So in this particular case, the small pelagic fishery, did you accept the MACs' advice?

Dr J Findlay: I would have to go back and check for you, but I understand that there was a lack of consensus. This is one of the problems that management advisory committees are made up of a collection of members and it is not unusual for that group of members to have different views. Those dissenting views are recorded. From memory, there were dissenting views on the number of the TACs. Those were provided both within the resource assessment group and the management advisory committee. Certainly, on the jack mackerel easts TAC decision there were dissenting views from within those groups provided to the AFMA commission as part of their decision making.

So, when you say 'MAC advice' I suppose I would be a little bit careful there that we do not force consensus and describe it in that way. A range of views from within the MACs or the RAGs are often presented to the commission, and that is what occurred on this occasion.

Answer:

The Australian Fisheries Management Authority Commission, an agency under the *Financial Management and Accountability Act 1997*, has been in place since July 2008. Prior to this the AFMA Board, a *Commonwealth Authorities and Corporations Act 1997* Agency, was responsible for Commonwealth Fisheries management.

Rural and Regional Affairs and Transport Committee
ANSWERS TO QUESTIONS ON NOTICE
Supplementary Budget Estimates October 2012
Agriculture, Fisheries and Forestry

Question: 32 (continued)

From July 2008 to present the Commission has accepted 78 per cent of majority recommendations from management advisory committees and not accepted 22 per cent of management advisory committee recommendations.

For the total allowable catches for the small pelagic fishery 2012–13 season the Commission made a decision consistent with the majority advice of the relevant management advisory committee and scientific resource advisory group.

Rural and Regional Affairs and Transport Committee
ANSWERS TO QUESTIONS ON NOTICE
Supplementary Budget Estimates October 2012
Agriculture, Fisheries and Forestry

Question: 33

Division/Agency: Sustainable Resource Management Division/Australian Fisheries Management Authority

Topic: Hand back of licences

Proof Hansard page: 77

Senator COLBECK asked:

Senator COLBECK: Did they give reasons for those hand-backs? Do we have a collection of the rationales for the handing back of the licences?

Dr Rayns: Generally we do not ask that specific question. There could be a range of reasons why concessions are surrendered to us. If they are not being utilised and people do not want to pay a levy, that can be one reason. It may be that they are changing the nature of their fishing business to focus on other activities. Many of our fishermen have multiple concessions in many different fisheries. It really depends on a range of business factors in terms of what they decide to do with their concessions.

Senator COLBECK: That was my next question. Your crystal ball must be working better than mine, because I was going to ask how many of the licences that were handed back were active. Do you have any information on that?

Dr Rayns: We might take that one on notice and check for you how many were active in the last 12 months.

Answer:

A boat is required to be nominated for a fishing concession before it can be used. Of the 54 (plus one batch of 100 Squid gear SFRs) fishing concessions surrendered in the 2011–12 financial year, 16 had a boat nominated at, or immediately prior to, the time of surrender.

One of the concessions surrendered was a Scientific Permit, and was surrendered after the research had been conducted.

Of the remaining 15 concessions surrendered that had boats nominated:

- one boat had not fished in the 2011–12 financial year prior to surrender;
- five boats are no longer fishing in the fishery in which they surrendered a concession;
- four boats are continuing to fish under another fishing method (concession) in the same fishery;
- one boat has leased in the concession type they surrendered and is continuing to fish;
- one boat (which was nominated to four of the surrendered concessions) is continuing to fish under an additional, and identical, concession owned by the company.

Rural and Regional Affairs and Transport Committee
ANSWERS TO QUESTIONS ON NOTICE
Supplementary Budget Estimates October 2012
Agriculture, Fisheries and Forestry

Question: 207

Division/Agency: Sustainable Resource Management Division/Australian Fisheries Management Authority

Topic: FV Abel Tasman/Margiris

Proof Hansard page: Written

Senator COLBECK asked:

What advice did AFMA provide to Minister Burke and Minister Ludwig regarding the FV Abel Tasman (then FV Margiris)?

When was this advice provided?

What advice did Minister Ludwig and Minister Burke request of AFMA with regard Minister Burke's concerns over the environmental impact of the FV Abel Tasman?

Answer:

The advice that the Australian Fisheries Management Authority (AFMA) provided to Minister Burke and Minister Ludwig regarding the FV Abel Tasman is publicly available as AFMA has released this information on 19 October 2012 under a Freedom of Information (FOI) request. These documents are available on the AFMA website at www.afma.gov.au/resource-centre/publications-and-forms/corporate/freedom-of-information/afma-disclosure-log/. Information about when each item was provided is included in the disclosure log.

AFMA has released correspondence with Minister Burke and Minister Ludwig under an FOI request. These documents are available on the AFMA website at www.afma.gov.au/resource-centre/publications-and-forms/corporate/freedom-of-information/afma-disclosure-log/.

Minister Ludwig has released departmental briefs on the matter, which are available at www.daff.gov.au/fisheries/domestic.

Minister Burke sought advice on management measures that AFMA have in place / could implement to minimise interactions with seal and dolphins. Minister Burke also sought AFMA's comment on the proposed conditions under the Part 13 accreditation of the Small Pelagic Fishery under the *Environment Protection and Biodiversity Conservation Act 1999* in relation to large scale midwater trawl freezer vessels.

Rural and Regional Affairs and Transport Committee

ANSWERS TO QUESTIONS ON NOTICE

Supplementary Budget Estimates October 2012

Agriculture, Fisheries and Forestry

Question: 208

Division/Agency: Sustainable Resource Management Division/Australian Fisheries Management Authority

Topic: TAC and conflict of interest

Proof Hansard page: Written

Senator COLBECK asked:

1. Is it usual for industry representatives to be involved with activities associated with setting quota?
2. QON 246 from May indicates that industry now undertakes surveys for establishing TAC and identifying areas for harvest for the Bass Strait Central Zone Scallop Fishery (BSCZSF). Does this happen in many other fisheries?
3. What controls are in place to ensure the impartiality of this research and the establishment of the TAC?
4. Who has ultimate responsibility for establishing the TAC for any fishery?

Answer:

1. The final decisions in relation to fisheries management plans are a matter for the Australian Fisheries Management Authority (AFMA) Commission. Commissioners are appointed on the basis of their high level of expertise in one or more of the fields of fisheries management, fishing industry operations, science, natural resource management, economics, business or financial management, law, public sector administration or governance. Commissioners cannot hold any executive position in a fishing industry association, nor can they have a controlling interest or executive role in any entity holding a Commonwealth fishing concession.

Industry membership on management advisory committees (MACs) is a requirement of the *Fisheries Administration Act* S 62(3) and AFMA has adopted a policy in relation to resource assessment groups (RAGs) that also reflects this. These consultative forums are expertise based, advisory in nature, and make recommendations to the AFMA Commission on strategic issues relevant to the management of Commonwealth fisheries including total allowable catches.

Scientists and AFMA value the input of fishers because their direct experience and on-water observations often assist in making best use of data and research during stock assessments. For example, fishers have raised concerns about declines in stocks that are not necessarily discernable to scientists and managers from the data.

2. Yes, fishery independent surveys are now widely used in major Commonwealth fisheries as required by the December 2005 Ministerial Direction to AFMA, and most involve the use of industry vessels. Commonwealth fisheries where fishery independent surveys are used to collect data include the Southern and Eastern Scalefish and Shark Fishery, the Great Australian Bight Trawl Fishery, the Northern

Rural and Regional Affairs and Transport Committee

ANSWERS TO QUESTIONS ON NOTICE

Supplementary Budget Estimates October 2012

Agriculture, Fisheries and Forestry

Question: 208 (continued)

Prawn Fishery, the Heard Island and Macquarie Island Fishery, the Eastern Tuna and Billfish Fishery, and the Southern Bluefin Tuna Fishery.

These fishery independent surveys are undertaken by scientists but fishing vessels are regularly used to undertake the data collection in accordance with the statistical design for the survey.

3. All fishery independent surveys (FIS) are oversighted by a resource assessment group (RAG) that provides advice both to the relevant management advisory committee and the AFMA Commission. The RAG is comprised of scientists, industry, AFMA and other stakeholders, and it is involved in determining the need for, the design of and carrying out of a FIS, consistent with the fishery's research plan. The RAG also has to comply with *Fisheries Administration Paper No. 12* that sets out the procedures and process it must follow in conducting its business. The AFMA Commission also has a Research Committee to oversight all AFMA research which is chaired by a Commissioner.
4. The AFMA Commission is responsible for setting total allowable catches for Commonwealth fisheries. In setting the catch limits for a particular fishery the AFMA Commission considers the advice of the relevant RAG and MAC, AFMA Management, any other independent advice and views from individual stakeholders.

Rural and Regional Affairs and Transport Committee
ANSWERS TO QUESTIONS ON NOTICE
Supplementary Budget Estimates October 2012
Agriculture, Fisheries and Forestry

Question: 209

Division/Agency: Sustainable Resource Management Division/Australian Fisheries Management Authority

Topic: Export Accreditation of the Small Pelagic Fishery

Proof Hansard page: Written

Senator COLBECK asked:

1. When was the last export accreditation of the Small Pelagic Fishery?
2. What information did AFMA provide to SEWPaC regarding the management of this fishery and the potential for interactions with endangered and protected species?
3. What conditions did SEWPaC require with regard to interactions with endangered and protected species?
4. How did AFMA respond to these conditions and how were they communicated to fishers working in or looking to work in this fishery?
5. What, if any, additional research did SEWPaC request during the accreditation process?

Answer:

1. On 6 January 2010, the then Minister for Environment, Heritage and the Arts amended the List of Exempt Native Specimens under Part 13A of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) to include specimens taken from the Small Pelagic Fishery (SPF) until 2 November 2014.
2. Most recently Australian Fisheries Management Authority (AFMA) provided advice on the practicality of conditions proposed to be applied to fishers within the SPF relevant to protection of listed species and the broader environment of the fishery. AFMA also provided details of the SPF and the proposed operations of the FV *Abel Tasman*.

AFMA has also previously provided the Department of Sustainability, Environment, Water, Population and Communities (SEWPaC) with annual status reports as part of the previous export accreditation conditions for the fishery. The 2011 status report outlined the management arrangements of the fishery. SEWPaC was also advised when the management arrangements changed to a system of individual transferrable quotas from 1 May 2012.

Rural and Regional Affairs and Transport Committee
ANSWERS TO QUESTIONS ON NOTICE
Supplementary Budget Estimates October 2012
Agriculture, Fisheries and Forestry

Question: 209 (continued)

3. There are no conditions on the current SPF accreditation under either Part 13A (relating to the export of native specimens) or Part 13 (which relates to protected species) of the EPBC Act 1999.

The conditions on the Part 13 accreditation that expired on 17 September 2012 can be accessed on SEWPaC's website here:

www.environment.gov.au/coasts/fisheries/commonwealth/pelagics/pubs/small-pelagics-part13-sept2012.pdf

4. The interim conditions (3 September 2012 to 17 September 2012) applied under part 13 of the EPBC Act and the proposed two year instrument were sent to the members of the South East Management Advisory Committee, which included an SPF industry member, to note the interim conditions and provide advice to the AFMA Commission on the conditions proposed for up to two years. The AFMA Commission subsequently considered each of the proposed conditions and provided advice back to the Minister for Sustainability, Environment, Water, Populations and Communities. In addition the AFMA Commission decided to implement new statutory fishing right (SFR) conditions under the *Fisheries Management Act 1991* some of these were the same or similar to the interim conditions imposed by Minister Burke under the EPBC Act.

AFMA consulted with the only SPF operator that these conditions would initially affect in order to develop the seabird and seal and dolphin management plans with effective measures to minimise the risk of interacting with these species. AFMA sent out a letter to all SPF statutory fishing right holders on 20 September 2012 to advise them of the change in the new SFR conditions.

5. SEWPaC did not request AFMA to conduct any specific additional research during the re-accreditation process.

Rural and Regional Affairs and Transport Committee
ANSWERS TO QUESTIONS ON NOTICE
Supplementary Budget Estimates October 2012
Agriculture, Fisheries and Forestry

Question: 210

Division/Agency: Sustainable Resource Management Division/Australian Fisheries Management Authority

Topic: Dolphins and seals

Proof Hansard page: Written

Senator COLBECK asked:

1. Have any Australian Ministers, AFMA representatives or departmental staff been on board the FV Abel Tasman?
2. Did Minister Ludwig consider the comments of the skipper of the FV Abel Tasman regarding dolphin interactions in coming to a decision regarding the uncertainty of environmental impacts with this marine mammal?
3. Has the Minister or Department considered the comments of the skipper of the FV Abel Tasman regarding seal interactions in coming to a decision regarding the uncertainty of environmental impacts with this marine mammal?
4. Did AFMA make any specific requests or requirements of the net to minimise the risk of negative interactions with seals?
5. Was there trialling of the improved excluder device?
6. In dealing with biosecurity uncertainty the Department applies risk assessment principles, looking at the likelihood of something happening and the consequences if it does happen. Was a similar approach applied to the uncertainty regarding the environmental impact of the FV Abel Tasman? If so, provide details of the assessment.

Answer:

1. While the FV Abel Tasman has been docked in Port Lincoln, AFMA have had three compliance officers, two observers and one bycatch and discard officer on board from time to time. The Department of Agriculture, Fisheries and Forestry (DAFF) has had one export inspector and three quarantine inspectors on board the boat from time to time.
- 2 and 3. DAFF when advising Minister Ludwig took note of all available and relevant information. There were many comments attributed to various proponent and critics regarding the issue in the public domain.
4. Small Pelagic Fishery (SPF) concession conditions state that the concession holder must use a seal exclusion device approved by AFMA when using the midwater trawl method.

AFMA updated the concession conditions on 20 September 2012 to specify that a large scale mid-water trawl boat with onboard processing facilities and a storage capacity in excess of 2000 tonnes must not fish using mid-water trawl methods unless a seal and dolphin management plan for the boat has been approved by AFMA.

Rural and Regional Affairs and Transport Committee
ANSWERS TO QUESTIONS ON NOTICE
Supplementary Budget Estimates October 2012
Agriculture, Fisheries and Forestry

Question: 210 (continued)

5. The top opening seal excluder device (SED) design is the result of research in both the Southern and Eastern Scalefish and Shark Fishery (SESSF) and SPF. In the SPF, the Tasmanian Aquaculture and Fisheries Institute (now the Institute for Marine and Antarctic Studies) used underwater video cameras on the SPF midwater trawl vessel FV *Ellidi* to provide advice on the most effective design. The research indicated that an upward opening SED reduces the risk of mortalities of marine mammals, however, it was more difficult to use because it was unwieldy on the vessel.

The SED that was proposed to be used on the FV *Abel Tasman* used a lighter more supple material, Dyneema as part of the building of a top opening SED. The use of Dyneema had been tested by the Dutch company; however, the specific SED to be used had not been tested.

6. The department applies risk assessment principles of considering questions of likelihood and consequence, either formally or informally, in all areas of its business including specifically in areas such as biosecurity, fraud and business continuity risk assessment and management. Questions of uncertainty in relation to the possible operation of the FV *Abel Tasman* or a similar vessel in the Small Pelagic Fishery were considered in the context of the *Environmental Protection and Biodiversity Conservation Act 1999* and the requirements of that Act. The Department of Sustainability, Environment, Water, Population and Communities has posted on its website (www.environment.gov.au) the briefing note provided to their minister to assist his consideration. This note explicitly considers uncertainty of environmental impact of large mid-water trawl freezer vessels. The Department of Agriculture, Fisheries and Forestry considered this advice and the advice of its own scientists in subsequently advising its minister on this issue.

Rural and Regional Affairs and Transport Committee
ANSWERS TO QUESTIONS ON NOTICE
Supplementary Budget Estimates October 2012
Agriculture, Fisheries and Forestry

Question: 211

Division/Agency: Sustainable Resource Management Division/Australian Fisheries Management Authority

Topic: Dolphins and seals

Proof Hansard page: Written

Senator COLBECK asked:

1. What does AFMA consider the likelihood of a negative environmental impact on marine mammals and seabirds from the activities of the FV *Abel Tasman* to be?
2. What data is there available to support this?
3. Is the likelihood of this negative environmental impact affected by boat size, or the ability to process and store catch on board?
4. What are some ways the potential of a negative environmental impact of the FV *Abel Tasman* could be managed?
5. What consideration did the department give to implementing alternate management strategies to minimise the potential for negative environmental impact of marine mammals and seabirds?

Answer:

1. Australian Fisheries Management Authority (AFMA) considers that midwater trawling, which is the method that was proposed to be used by the FV *Abel Tasman*, is relatively selective and has low levels of bycatch.
2. For answer two please refer to answer three.
3. AFMA is not aware of any evidence that the likelihood of negative environmental impact for any given level of effort in the Small Pelagic Fishery (SPF) is affected by boat size or the ability to process and store catch on board. Primary responsibility for the assessment of environment impacts rests with the Department of Sustainability, Environment, Water, Population and Communities (SEWPaC).
4. AFMA, in conjunction with fisheries scientists monitors the performance of management and makes adjustments to operating conditions as necessary. Under the *Fisheries Management Act 1991*, AFMA has imposed an extensive list of operating conditions on mid water trawl vessels in the SPF to minimise environmental risks of fishing.

Rural and Regional Affairs and Transport Committee
ANSWERS TO QUESTIONS ON NOTICE
Supplementary Budget Estimates October 2012
Agriculture, Fisheries and Forestry

Question: 211 (continued)

In AFMA's view the risk of negative environmental impact can be managed by measures such as:

- deploying observers on the boat to monitor activities
- not deploying nets if marine mammals are sighted around the boat
- implementing move on provisions for seal and dolphin interactions
- using upward opening seal excluder devices and monitoring the devices using underwater cameras
- not discharging biological material while gear is in the water so as not to attract seabirds
- cleaning the nets prior to deployment to reduce the risk of bycatch
- deploying bird scaring devices while the gear is in the water
- monitoring effort to assess any risk of localised depletion, and
- implementing move on provisions when a catch reaches a pre-defined level.

Primary responsibility for the assessment of environmental impacts rests with SEWPaC.

5. AFMA considered a range of alternate management strategies as part of the AFMA Commission deliberation and decision making process. The level of both seal and dolphin interaction triggers and appropriate magnitude of move on requirements were key considerations.

Rural and Regional Affairs and Transport Committee

ANSWERS TO QUESTIONS ON NOTICE

Supplementary Budget Estimates October 2012

Agriculture, Fisheries and Forestry

Question: 213

Division/Agency: Sustainable Resource Management Division/Australian Fisheries Management Authority

Topic: Eastern Tuna and Billfish Fishery

Proof Hansard page: Written

Senator COLBEK asked:

1. Do AFMA accept that a bureaucratic oversight by its officers has created an issue with removing legal entitlement to ETBF fishing permits from the existing owners as at July 2009 and reinstating the legal title to the owners of the ETBF Fishing Permits in May 2002.
2. What actions have AFMA undertaken to amend the legislation and so that the situation is not repeated?
3. What actions have AFMA undertaken to reinstate the title to the legal title holders?
4. What actions have AFMA undertaken to compensate the affected parties?
5. If a compensation process has now started, how long before it will be concluded and the affected parties compensated?
6. If the delay is more than 6 months, what actions are AFMA undertaking to expedite such claims?

Answer:

1. Australian Fisheries management Authority (AFMA) does not agree that a bureaucratic oversight occurred; removing legal entitlement from existing permit owners in the Eastern Tuna and Billfish Fishery (ETBF) as at July 2009.

This issue arises from the fact that statutory fishing rights (SFRs) in the ETBF were issued in August 2009 but allocated only to qualified owners of fishing permits on the earlier 'snapshot date' of November 2002.

In 2002 AFMA began the administrative process of changing the management arrangements of the ETBF from output controls, in the form of Fishing Permits, to input controls, through gear SFRs.

As part of this process AFMA took a snapshot of the Fishing Permit Register in 2002. Owners of Fishing Permits for the ETBF at this time were eligible for the grant of SFRs in accordance with the proposed plan of management for that fishery.

Rural and Regional Affairs and Transport Committee
ANSWERS TO QUESTIONS ON NOTICE
Supplementary Budget Estimates October 2012
Agriculture, Fisheries and Forestry

Question: 213 (continued)

AFMA notified the then current owners that only they would be eligible for the grant of SFRs, and added a warning stating as such to the application form used to transfer all fishing permits. The transfer form containing the warning must be executed by both the seller and the buyer before it is actioned by AFMA.

As part of the allocation process for SFRs, operators are entitled to appeal the number of SFRs that is proposed to be granted to them (the provisional grant). Several operators chose to exercise this right and lodged appeals to the Administrative Appeals Tribunal and to the High Court of Australia. Until this process was completed, AFMA could not proceed with the grant of SFRs. As such it was not until 2009 until a final grant of SFRs was made.

AFMA is aware of one operator that may not have made themselves aware of the transitional arrangements in the ETBF.

On 14 March this year, following a complaint considered by the Ombudsman who identified shortfalls in the processes followed by both the Complainant and AFMA, AFMA decided to make a grant of SFRs to the Complainant.

This grant reinstated the equivalent entitlement of SFRs and placed the Complainant back in the position they might have been had they familiarised themselves with the administrative arrangements and had AFMA not subsequently made a clerical error on this occasion.

The Complainant has subsequently submitted a claim for compensation not in relation to his original complaint but arising from the loss of the fishing permit he had originally acquired to fish in the fishery.

The claim is complex, in excess of \$3 million, and has a ten year history. An investigator has been appointed and the report is expected to be finalised shortly.

However, the timing of the investigator's final report will, in part, depend on the timing and nature of any additional information supplied by the applicant or AFMA in response to any matters raised by the investigator.

2. As a deficiency in the legislation has not been identified, no amendment has been made.
3. Please refer to response to question one.
4. Please refer to response to question one.
5. Please refer to response to question one.
6. Please refer to response to question one.

Rural and Regional Affairs and Transport Committee

ANSWERS TO QUESTIONS ON NOTICE

Supplementary Budget Estimates October 2012

Agriculture, Fisheries and Forestry

Question: 247

Division/Agency: Sustainable Resource Management Division/Australian Fisheries Management Authority

Topic: Gillnetting

Proof Hansard page: Written

Senator SIEWERT asked:

1. According to an ABC news report fishers from South Australia are moving to the gillnet fishery in WA as a result of the closures and restrictions in SA. Can you confirm if this is the case?
2. How many gillnet vessels previously fishing in SA are now fishing in WA? Where in WA waters these gillnet vessels are now operating?
3. Can the Department explain why the SA and WA gillnet fisheries are being treated differently for conditions posed on export approval when the industry has publicly stated they are going to now fish in WA where they are unrestricted?

Answer:

1. The Department of Agriculture, Fisheries and Forestry and the Australian Fisheries Management Authority are not aware of anyone moving to Western Australia to fish.
2. Please see the response to question one.
3. The Minister for Sustainability, Environment, Water, Population and Communities through the Department of Sustainability, Environment, Water, Population and Communities (SEWPaC) is responsible for the assessment of fisheries under *the Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), including the declaration of wildlife trade operations and any associated conditions. This question is properly directed to SEWPaC.

Rural and Regional Affairs and Transport Committee

ANSWERS TO QUESTIONS ON NOTICE

Supplementary Budget Estimates October 2012

Agriculture, Fisheries and Forestry

Question: 248

Division/Agency: Sustainable Resource Management Division/Australian Fisheries Management Authority

Topic: Management Advisory Committees

Proof Hansard page: Written

Senator SIEWERT asked:

For the last 10 years, please provide details on how often does the commission accept the recommendations of a MAC compared to how often the Commission rejected or modified the recommendation of a MAC.

Answer:

The Australian Fisheries Management Authority (AFMA) Commission, an agency under the *Financial Management and Accountability Act 1997*, has been in place since July 2008. Prior to this the AFMA Board, a *Commonwealth Authorities and Corporations Act 1997* Agency, was responsible for Commonwealth Fisheries management.

From July 2008 to present the Commission has accepted 78 per cent of majority recommendations from management advisory committees and not accepted 22 per cent of management advisory committee recommendations.

Rural and Regional Affairs and Transport Committee
ANSWERS TO QUESTIONS ON NOTICE
Supplementary Budget Estimates October 2012
Agriculture, Fisheries and Forestry

Question: 281

Division/Agency: Sustainable Resource Management Division/Australian Fisheries Management Authority

Topic: Incidents of illegal fishing in Australia's southern waters

Proof Hansard page: Written

Senator MACDONALD asked:

1. What agency of State or Federal Government was active in effecting these enforcements?
2. What was the annual cost of illegal fishing enforcement in Northern waters in 2010/11?
3. What was the annual cost of illegal fishing enforcement in Northern waters in 2011/12?
4. What is the projected annual cost of illegal fishing enforcement for Australia waters in 2012/13?
5. What was the annual budget for illegal fishing enforcement in Northern waters in 2011/12?
6. What is the annual budget for illegal fishing enforcement in Australian waters in 2012/13?

Answer:

1. The Australian Customs and Border Protection Command (ACBPC), the Australian Defence Force (ADF), Border Protection Command (BPC) and the Australian Fisheries Management Authority (AFMA).

The following budgets were provided by AFMA and are for their operations only*

2. \$5 222 999 (Operational)
\$3 750 000 (Administered)
\$8 972 999 (Total)
3. \$4 586 941 (Operational)
\$2 850 000 (Administered)
\$7 436 941 (Total)
4. \$9 891 835 (Operational)
\$4 066 000 (Administered)
\$13 957 835 (Total)

Rural and Regional Affairs and Transport Committee
ANSWERS TO QUESTIONS ON NOTICE
Supplementary Budget Estimates October 2012
Agriculture, Fisheries and Forestry

Question: 281 (continued)

5. \$4 906 538 (Operational)
\$5 693 000 (Administered)
\$10 599 538 (Total)

6. \$9 891 835 (Operational)
\$4 066 000 (Administered)
\$13 957 835 (Total)

- * The budget and expenditure figures above reflect those associated with AFMA operations only and they are exclusive of AFMA overheads and GST. Operational costs include officer time on patrol, investigation and prosecution, operational response in Border Protection Command, officer time in capacity building programs. Administered costs include infrastructure builds and contract costs for vessel caretaking and disposal.

The Australian Customs and Border Protection Command is the lead agency coordinating regular patrols (both aerial surveillance and on-water) of the Exclusive Economic Zone. These patrols cover eight maritime threats including illegal foreign fishing and the amounts related to specific maritime threats cannot be disaggregated for operational reasons.

Rural and Regional Affairs and Transport Committee

ANSWERS TO QUESTIONS ON NOTICE

Supplementary Budget Estimates October 2012

Agriculture, Fisheries and Forestry

Question: 296

Division/Agency: Sustainable Resource Management Division/Australian Fisheries Management Authority

Topic: Small Pelagic Fishery

Proof Hansard page: Written

Senator WHISH-WILSON asked:

1. Which AFMA Commissioners made the decision on the doubling of the small pelagic fishery quota?
2. What processes does AFMA have in place to review independent science?
3. Does it have a peer review system?
4. Over the past decade what percentage of scientific research related to AFMA's fisheries management responsibilities was funded by non-industry sources?
5. Over the past decade what percentage of scientific research related to the management of the Small Pelagic Fishery was funded by non-industry sources?
6. How does the application of the precautionary principle in AFMA's fisheries management compare to the United Nations Food and Agriculture Organisation (FAO) Code of Conduct 1995 and the FAO guideline documents published in 1996?
7. Has AFMA developed Australian guidelines for the application of the precautionary principle that meet obligations under the Convention on Biological Diversity?
8. What metrics exist on the capability and capacity AFMA to provide for sustainability of individual fisheries in the context of Australia's participation in the international Convention on Biological Diversity and the consequent obligations of Australia to apply an ecosystem approach to fisheries management for the purposes of maintaining natural structure and function of ecosystems?
9. What metrics exist for benchmarking the sustainability of individual fisheries, against a background of Australia's participation in the international Convention on Biological Diversity process, and subsequent obligations to apply an ecosystem approach to fisheries management?
10. Did members of the Small Pelagic Fisheries Resource Assessment Group (SPFRAG) raise objections as late as the August 30-31st meeting that the conflict of interest involving Gerry Geen which had existed at the February 2012 SPFRAG meeting was continuing?
11. Did members of the SPFRAG raise objections in the August 30-31st meeting that the Seafish Tasmania application to apply the Harvest Strategy general metarule with regard to the increase of the Jack Mackerel did not follow required procedures with respect to the timing of the presentation of supporting documentation?
12. Is AFMA of the view that the potential interaction of midwater trawl gear and Lanternfish can be monitored by observers?
13. What methods do AFMA observers use to document the incidental kill of species like Lanternfish?

Rural and Regional Affairs and Transport Committee
ANSWERS TO QUESTIONS ON NOTICE
Supplementary Budget Estimates October 2012
Agriculture, Fisheries and Forestry

Question: 296 (continued)

14. Did any members of the SPFRAG on August 30-31st raise concerns or objections to making vessel catch data available that could inform AFMA on the risks of localized depletion?

Answer:

1. All nine members of the Australian Fisheries Management Agency (AFMA) Commission participated in the decision to decide the nine total allowable catches (TACs) for the small pelagic fishery 2012–13 season. Only one TAC was doubled, Jack Mackerel East, while some other TACs were both higher or lower than the previous year.
2. AFMA utilises or otherwise draws upon a diverse range of peer reviews of the science it uses in managing Commonwealth fisheries. Resource Assessment Groups (RAGs) provide advice in relation to stock assessments for key commercial species and risk assessments dealing with the broader impacts of fishing on marine ecosystems. Independent peer review is a regular feature of the RAG assessment cycle.

Domestic fisheries science is reviewed by fisheries scientists on the resource assessment groups (RAG) with input from industry, AFMA, environmental members and recreational members. RAGs have a range of government and private sector fisheries scientists on them, and government scientists are often from more than one organisation ensuring there is no organisational bias. In south east fisheries (where many TACs are set) there is an additional meeting of several RAGs once a year to ensure consistency of advice during the total allowable catch setting process.

There are also regular external reviews of research and scientific advice generated through the RAGs. These are usually commissioned by AFMA and sometimes by the fishing industry. The Department of Agriculture, Fisheries and Forestry and the Department of Sustainability, Environment, Water, Population and Communities (SEWPaC) also commission reviews of fisheries science from time to time, eg on Southern Blue Fin Tuna and Australian Sea Lions, respectively.

In certain cases, AFMA establishes special scientific advisory groups to provide advice on management issues; an example is the Scientific Working Group advising AFMA on the science used in the management of gulper sharks.

Many of the contracted parties are bodies that have their own peer review processes, eg CSIRO, UTas/IMAS and SARDI. Where research is contracted to private sector companies the reviews are conducted through the relevant RAG and, as noted above, by external third parties where appropriate. Research commissioned through the FRDC is subject to any external review processes operated by that agency. These review processes are expanded on below.

Rural and Regional Affairs and Transport Committee
ANSWERS TO QUESTIONS ON NOTICE
Supplementary Budget Estimates October 2012
Agriculture, Fisheries and Forestry

Question: 296 (continued)

AFMA also manages fisheries where international arrangements also apply. In those fisheries, such as Southern Bluefin Tuna, other tuna fisheries and the Antarctic fisheries, science that underpins management is regularly reviewed by panels of international scientists from member countries. They in turn also use external scientific experts from time to time to review their research.

Within the AFMA Commission there are also four Commissioners with extensive scientific training and experience, all of whom are internationally recognised.

3. Please see response to question two.
4. This is a complex question and can not be answered in detail within the time constraints of the request. Since its inception AFMA has utilised research that has been funded from a wide range of government and industry sources. Most research funding comes from government through AFMA, FRDC, CSIRO, DAFF, Universities and program grants such as the Natural Heritage Trust and Caring for Country.

Industry funding for research comes through:

- cost recovery of research by AFMA;
- levy contribution to FRDC;
- direct payment; and
- in-kind contribution.

Because of the diversity of research relevant to the Small pelagic fishery and diversity of funding sources, a detailed response would take a large amount of time and resources.

5. Please see response to question four.
6. The *Fisheries Management Act 1991* and *Fisheries Administration Act 1991* both require that AFMA apply the precautionary principle when taking fisheries management decisions. In this legislation, the precautionary principle is defined with reference to the definition contained in the Intergovernmental Agreement on the Environment. Section 3.5.1 of the Intergovernmental Agreement on the Environment defines the precautionary principle as follows:

Where 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. In the application of the precautionary principle, public and private decisions should be guided by:

- i. careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment; and*
- ii. an assessment of the risk-weighted consequences of various options.*

Rural and Regional Affairs and Transport Committee
ANSWERS TO QUESTIONS ON NOTICE
Supplementary Budget Estimates October 2012
Agriculture, Fisheries and Forestry

Question: 296 (continued)

In accordance with this definition, AFMA regulates fishing to prevent serious or irreversible environmental damage in the absence of scientific certainty about the likelihood or scale of such impacts. AFMA has applied ecological risk assessments to all its fisheries and where unacceptable risks exist has applied ecological risk management, including the use of mitigation tools to protect species under the *Environment Protection and Biodiversity Conservation Act 1999*.

This approach is consistent with, although not the same as, the United Nations Food and Agriculture Organisation (FAO) Code of Conduct (1995) and the FAO Technical Guidelines for responsible Fisheries No 2 (1996) which indicate that fisheries management organisations should apply a precautionary approach (rather than the precautionary principle) to conservation, management and exploitation of living aquatic resources. These documents further state that the absence of adequate scientific information should not be used as a reason for postponing or failing to take conservation and management measures.

7. AFMA is not responsible for developing Australian guidelines for the application of the precautionary principle under the Convention on Biological Diversity.
8. SEWPaC is responsible for preparing and submitting Australia's national report on its implementation of the Convention on Biological Diversity. The latest report was submitted in March 2009 and a new report is due in March 2014. Several parts of that 2009 report refer to fisheries management, including the use of strategic assessments under Part 10 of the *Environment Protection and Biodiversity Conservation Act 1999* and wildlife trade operation declarations under Part 13A, as mechanisms by which fisheries management regimes meet the provisions of the Convention.
9. Please see response to question eight.
10. The recreational and charter members of SPFRAG raised concerns at the SPFRAG meeting of August 30-31 that the conflict of interest involving Gerry Geen continued, however, all members of SPFRAG agreed that the conflict would not prevent the RAG's consideration of any agenda items for that meeting. It should be noted that Fisheries Administration Paper No. 12 does not automatically exclude a member who has declared a conflict of interest from participating in the relevant RAG agenda item. The record of the meeting can be found at www.afma.gov.au/wp-content/uploads/2010/06/121022-SPFRAG-14-meeting-record-FINAL.pdf¹¹. AFMA has reviewed the record of the meeting and there is no recorded objection to the timing of the documentation. The record of the meeting can be found at www.afma.gov.au/wp-content/uploads/2010/06/121022-SPFRAG-14-meeting-record-FINAL.pdf

Rural and Regional Affairs and Transport Committee
ANSWERS TO QUESTIONS ON NOTICE
Supplementary Budget Estimates October 2012
Agriculture, Fisheries and Forestry

Question: 296 (continued)

12. AFMA observers are only able to observe interactions that are visible from the vessel or through the use of underwater video. AFMA observers have not reported significant interaction levels with lanternfish in the Small Pelagic Fishery. By contrast logbooks and AFMA observers more commonly report lanternfish interactions in other fisheries such as the Commonwealth trawl sector otter trawl fishery and Heard Island and McDonald Island Fisheries.

AFMA has assessed almost 2000 species as part of the Ecological Risk Assessment process, with 69 species being identified as high risk. Lanternfish are not in this high risk group and were generally found to be low risk except for Large Scaled Lanternfish. This species was assessed as medium risk in the Otter Trawl Fishery because of spatial uncertainty of the species not because there was an identified risk.

These assessments are available on the AFMA website at www.afma.gov.au/managing-our-fisheries/environment-and-sustainability/Ecological-Risk-Management/.

13. Observers are required to collect information on each species observed including an accurate count or approximate weight (for example from extrapolating approximate total catch of the species from a sub-sample) and whether the catch is retained or discarded. This is documented on the Observer Catch Composition Data form.
14. No. As a condition of access, AFMA requires all operators to provide fine scale data that would enable it to undertake or commission analyses aimed at detecting possible evidence of localised depletion. The record of the meeting can be found at www.afma.gov.au/wp-content/uploads/2010/06/121022-SPFRAG-14-meeting-record-FINAL.pdf.