

NATURE CONSERVATION COUNCIL of NSW AQUACULTURE AND FISHERIES POLICY

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Introduction

The first Nature Conservation Council Marine Policy was endorsed by the 1990 Annual Conference. The 1990 Policy had seven distinct sections:

- Protection of the global ocean environment;
- Commonwealth and State co-operation in determining management objectives;
- Management and control of pollutants;
- Establishment of Marine National Parks and wilderness areas;
- Minimising the impacts of fishing;
- Environmental Impact Assessment for any activity likely to have an impact on the marine environment; and
- Establishment in NSW of a lead agency to manage the marine environment.

Supplements to the Marine Policy were passed at the 1991 and 1992 Annual Conferences. The supplements expanded on pollution control and included broader conservation issues such as mineral and mining exploration, whaling, Antarctic resources and Commonwealth responsibilities under national and international agreements. Fishing and aquaculture were addressed in detail. The supplements to the Marine Policy called for the development of Management Plans for each activity relating to the marine environment.

The passing of new legislation and amendments to existing Acts has instigated a review of the Marine Policy. The 2000 Draft Policy amendments will rescind sections of the 1992 Policy dealing with fisheries and aquaculture.

Preamble

The Oceans contain the majority of the planet's species. The capacity of humans to deplete marine species, or biodiversity, expanded at an exponential rate throughout the last century. Loss of habitat and over-exploitation of fish populations are the primary threat to marine biodiversity. The principle contributors to this degradation include fishing, pollution and poorly managed land use activities.

The health of the marine environment is of significant concern to the communities of coastal NSW. A program to conserve an important recreational, commercial and tourist resource through ecologically sustainable management of resource extraction and fisheries habitat needs to be embraced.

The alternative to current management practices receiving popular support is described by the term ***Ecosystem Based Management***. Ecosystem Based Management means developing an operational framework to manage natural resources in the context of human impacts upon the entire ecosystem. Contemporary natural resource management is sectoral based, with each management authority being blinkered by the scope of the activity they manage. An Ecosystem Management Framework approach incorporates inter-government and inter-department management of natural resources in co-operation with the wider community and resources users. In the context of managing fisheries resources, there is a need to include all sectors from the fishing industry, recreational fishers, primary producers, urban planners, indigenous groups and conservations. An excellent first step for applying Ecosystem Management is the establishment of at least one Marine Protected Area within each marine bioregion of Australia. This is aimed to protect and conserve biodiversity, habitat and ecological processes. However this approach only restricts human activities and impacts in relatively small areas of Australian territorial waters. Therefore it is only one component in implementing Ecosystem Based Management.

A recent case in the Land and Environment Court of NSW illustrated the level of community concern for marine resources. The applicants (Sustainable Fishing and Tourism Inc) were successful in having commercial fishing deemed an activity under Part V of the *Environmental Planning and Assessment Act* (EP&A Act). The Government responded by placing an obligation on NSW Fisheries to conduct an Environmental Impact Assessment (EIA) for each commercial fishery in NSW. Commercial fishing licences in NSW were previously renewed by NSW Fisheries with minimal investigation into the impacts of the activity on the marine environment. Furthermore, recent changes to Commonwealth environment laws, announced on the 11th August 2000, require a fishery assessment for any fishery which exports species native to Australia's marine environment. The NSW government needs to gain accreditation of the assessment process from the Commonwealth to meet the requirements of Schedule 4 of the *Wildlife Act*, 1999 (and will be seeking to do so).

This Policy proposes a process of independent assessment and approval of statutory fishery management plans in NSW. The Policy advocates a whole of government approach that will contribute to an impartial assessment of the environmental impacts of fishing operations in NSW, and proposes a framework that will contribute to satisfying the obligations of Part V of the *EP&A Act* and complement the requirements of Schedule 4 of the *Wildlife Act*, 1999.

Legislation will soon require management plans for commercial and recreational fishing in NSW – recreational fishing has an estimated participation rate as high as 2 million. The take of some species such as snapper and kingfish rivals and may be higher than that of commercial fishers. The recreational fishing sector is clearly too large to be ignored in considering fishery assessments and the development of management plans.

Aquaculture is promoted by the industry as the future means of filling the protein demands of a burgeoning world population. Proponents for the industry claim

aquaculture production will one day outgrow production from exploited wild fish populations. The aquaculture industry is being promoted and export opportunities to financially disadvantaged communities in regional NSW.

While the expansion of aquaculture in NSW may provide some benefits to regional communities, the industry should not be embraced by the environment movement, as examples from other States and overseas indicate that the benefits of aquaculture are not worth the risks and impacts of the environment.

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POLICY

1. A Framework for Ecosystem Management

1.1 Sustainable fisheries management implemented via management plans under the Fisheries Management Act 1994

- 1.1.1 Management plans and research must be the cornerstones in providing sustainable exploitation of marine resources within an Ecosystem Management Framework.
- 1.1.2 Estimates of the level of participation and overall mortality caused by recreational and commercial fishers must contribute to the development of management plans for both sectors.
- 1.1.3 Each management plan must have a suite of ecological indicators to measure the success of the plan in providing a framework for ecologically sustainable exploitation of all marine resources associated with the fishery.
- 1.1.4 Each ecological indicator must be the product of rigorous and defensible scientific protocol.
- 1.1.5 Terms and periods of review and revision must be outlined in the detail of the management plan. Each management plan must have pre-defined tolerances (trigger points) for each ecological indicator that will trigger a review of the plan should they be reached.
- 1.1.6 Each management plan should be reviewed, and if necessary, revised every five years regardless of trigger points.

1.1.7 Management targets need to be outlined in the plan and periodically measured against management and fishery outcomes. Management trigger points or time scales need to be incorporated into the plan to facilitate a review of plans that are not achieving management targets.

1.2 *Improved land based management to reduce impacts on estuarine and marine ecosystems*

1.2.1 Obligations for both State and Local governments must be included within development approval processes to notify NSW Fisheries of any likely impacts on marine/aquatic habitat, where such impacts are likely.

1.2.2 Development proposals must undergo a public exhibition and consultation process. Approval of development proposals and licences must require the development and implementation of an Environmental Management System (EMS) including mitigation measures and controls that are independently audited.

1.2.3 Joint strategies should be developed and financial incentives provided for landholders to protect and conserve private wetlands.

1.2.4 Sustainable land use practices should be developed and promoted.

1.2.5 There must be concerted action to reduce the run-off of nutrients, sediment and other pollutants from urban, rural and industrial land-based activities.

1.3 *A comprehensive, adequate and representative Marine Park and Reserves system*

1.3.1 Marine Parks and Reserves (MPAs) are an essential tool for protecting and maintaining marine biodiversity.

1.3.2 A minimum of 20% of marine waters in NSW must be fully protected from all fishing to ensure that conservation and preservation of marine biodiversity, habitat, ecological communities and evolutionary processes.

1.3.3 Bioregional assessments outlining candidate areas for MPAs in NSW must be completed by 2003 to expedite the establishment of a comprehensive adequate and representative marine reserve system.

1.3.4 A process should be established to facilitate community nomination marine reserves/MPAs.

1.3.5 Activities such as mineral exploration and intensive aquaculture must not be permitted within any marine reserve/MPA.

2. A Framework for Fisheries Assessment And Management

Fisheries Sub-Committee

- 2.1 A Fisheries Sub-committee of Cabinet should be established with representation of those Ministers who will be involved in the assessment process and improved management of the resource and habitat, including:

The Minister for Fisheries – responsible for fisheries management plans and licensing, threatened aquatic species conservation, mangrove protection, aquatic reserves.

The Minister for Urban Affairs and Planning - responsible for land use planning impacts (wetlands, urban/industrial/intensive agricultural development) on fisheries habitat.

The Minister for the Environment & the NPWS - responsible for land based pollution, marine reserves.

The Minister for Agriculture & Land and Water Conservation – responsible for waterways management, agricultural practices, private vegetation management.

Research Assessments

- 2.2 The Resource and Conservation Assessment Council (RACAC) should be commissioned to undertake, with the support of NSW Fisheries, the NSW Environment Protection Authority and the Department of Urban Affairs and Planning assessments based on environmental, social and economic research of area or species-based fisheries, according to terms of reference resulting from consultation with stakeholders. Assessments would examine:

- recreational and commercial take (species, age, distribution, season, quantities, location);
- extraction methods (impact on target species, habitat, by-catch);
- alternative management approaches; and
- the development of sustainability indicators.

- 2.2.1 Oversight of the quality of the assessments should be by an independent council (similar to the RACAC) with representatives from environment, commercial, recreational and indigenous sectors. Representative3s should include independent conservation scientists, and stakeholders should have representation on technical or steering committees formed by the council.

2.2.2 The Cabinet Sub-committee should “sign-off” on the assessment outcomes and plans prior to public exhibition.

EP&A Act Issues

2.3 Due the recent Sustainable Fishing and Tourism case in the Land and Environment Court, a legislative response is required to settle Part 5, *EP&A Act* issues. This should involve:

2.3.1 a legislated timetable for public exhibition of the assessments and plans (most urgent or threatened fisheries first);

2.3.2 a final date for gazettal of fishery management plans (all fisheries completed by 2003);

2.3.3 a provision that the assessments and plans satisfy the needs of Part 5 of the *EP&A Act* so long as the activity does not change in a manner which is likely to have a significant impact on the environment, including fisheries resources;

2.3.4 a moratorium on the ‘illegality’ of licences under gazettal of the plans;

2.3.5 a requirement that new licences must be issued in conformity with the plans upon plan gazettal;

2.3.6 application of the formal public consultation requirements of Part 5, as a minimum; and

2.3.7 five year reviews of the plans (via the *Fisheries Management Act*).

2.4 Industry Restructuring

2.4.1 Industry restructuring must be progressed in NSW with each management plan detailing strategies to remove latent and direct fishing ‘effort’ from the industry.

2.4.2 Any removal of commercial ‘effort’ through purchasing entire fishing business should be by means of a process of negotiation between industry, government and other stakeholders.

2.4.3 Any buy-out schemes should be funded by industry and strategically directed at less sustainable fishing methods.

2.4.4 Buy-out schemes must aim to not economically disadvantage affected fishers.

2.4.5 A working group consisting of industry, government and Nature Conservation Council representatives should be formed to discuss:

- cost sharing;
- financial allocation mechanism;
- valuing equipment and licences; and
- transparency and accountability.

2.5 **Community and industry consultation in the decision-making process**

2.5.1 The Nature Conservation Council endorses the current process and procedures of MACs and Advisory Councils.

2.5.2 Nature Conservation Council inclusion in this process must be statutory and ongoing.

2.5.3 Attempts to engage indigenous stakeholders must be improved by NSW Fisheries in concert with releasing the Indigenous Fishing Strategy.

2.6 ***Research, monitoring and reduction of the impacts of fishing***

2.6.1 There should be further research and implementation of by-catch reduction services for all fisheries in NSW>

2.6.2 The impacts of fishing gear on marine habitat should be investigated with a view to reducing or eliminating further and ongoing impacts.

2.6.3 The impacts of fishing activities on ecological processes and trophic linkages should be identified and reduced.

2.6.4 The Nature Conservation Council acknowledges the progress of the fishing industry in progressing towards more sustainable gear technologies.

3. **Management and Assessment of Recreational Fishing**

3.1 ***Management of Recreational Fishing***

3.1.1 Recreational fisheries must be managed, quantified and assessed accordance with the principles of ecologically sustainable development (ESD).

3.1.2 The *Fisheries Management Act* must be amended to make mandatory the development of Management Strategies for all forms of recreational fishing.

3.1.3 Statutory Management Plans for recreational fishing should be drafted in consultation with the Advisory Council or Recreational Fishing (with guidelines, assessments, public exhibition and auditing as per Section 1 & 2 of this Policy).

3.1.4 Levels of participation and extraction for recreational fishing must be accurately estimated and factored into the development of Management Plans for both commercial and recreational fisheries.

3.2 *Licenses and fees for recreational fishing*

3.2.1 Recreational fishers must pay for the administration and management of their pursuit and contribute to environmental programs.

3.2.2 The Nature Conservation Council supports the proposal to introduce a general fee for recreational fishers.

3.2.3 Funds raised from the fee should be placed into a trust, with expenditure being directed by a modified Recreational Fishing Licence Expenditure Committee consisting of recreational fishers and at least one representative of the Nature Conservation Council.

3.2.4 Revenue from the Trust directed to NSW Fisheries for costs relating to administration of recreational fishing, including compliance, should be determined by the Independent Pricing and Regulation Tribunal.

3.2.5 Funding should be directed into habitat protection and rehabilitation research and education.

3.2.6 The Nature Conservation Council does not support the creation of recreational fishing business with recreational fishing permit funds.

3.3 *Restocking coastal lakes and estuaries for recreational fishing*

3.3.1 The risks associated with restocking are not fully understood and restocking can compromise the value of fish stocks as a key indicator of environmental health.

3.3.2 The Nature Conservation Council supports sound management that prevents the need to restock NSW waters.

3.3.3 Rigorous environmental assessments with a statutory requirement for an EIA is needed for existing and proposed stocking programs in all NSW waters.

3.3.4 Precautionary principle objectives of the *Fisheries Management Act* must be applied to further considerations of stocking introduced and/or native species in NSW waters.

3.3.5 The Nature Conservation Council is strongly opposed to stocking NSW waters with introduced and/or native species of value to recreational and commercial fishers.

4. **Development of an Ecologically Sustainable Aquaculture Industry in NSW**

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4.1 Aquaculture developments must comply with relevant NSW policy and legislation associated with:

- clearing vegetation of high conservation value;
- impact on threatened species or critical habitat;
- disturbance of unique or pristine aquatic habits;
- water quality
- acid sulphate soils; and
- *NSW Fisheries translocation policy*.

4.2 Aquaculture developments should not be exempt from the NSW water extraction embargo. Aquaculture should be included in the trade of water allocations in the same way as other land use practices.

4.3 An Environmental Bond should be paid up-front by the proponents of an aquaculture development to ensure funding is available to rehabilitate sites abandoned by unsuccessful businesses.

4.4. A clear legislative process must be developed to regulate rehabilitation of freehold and leased aquaculture sites.

4.5 Removal of species from the wild for the purpose of stocking aquaculture farms must be limited to a sustainable level.

4.6 **Aquaculture and Waste Management**

4.6.1 *Aquaculture developments must adopt best practice waste water management technologies.*

4.6.2 Approval for aquaculture development must be conditional upon waste water recycling and/or re-use (closed system).

4.6.3 No waste water should be permitted to enter the environment and/or local sewerage systems via discharge from aquaculture farms.

4.7 ***Regulation of Aquaculture***

4.7.1 There must be a clear definition of the role of consent authorities and exchange of information between State and Local Government Authorities.

4.7.2 Consent Authorities should be given extended period to supply conditions of development consent prior to a Local Council granting a final approval.

4.7.3 The State Government should have no authority to override the concerns of a Consent Authority if the Authority needs further time to consider an application.

4.7.4 Local Councils need a background on the environmental hazards associated with aquaculture developments to ensure informed decisions can be made.

4.8 *Risk Assessment and Ecological Sustainability*

4.8.1 The role of risk assessment, monitoring and compliance should rest with government authorities with the necessary expertise and objectivity.

4.8.2 Risk assessment analysis for aquaculture must be independent and not carried out by the proponent for a development.

4.8.3 Ongoing on-site monitoring and compliance must be carried out by the proponent and be independently audited and publicly reported as part of the EMS required by the licence.

4.8.4 Land based aquaculture sites need to be located well above 1 in 100 year flood levels to avoid risk of translocated and/or genetically modified species escaping into the catchment.

4.8.5 Meaningful trigger points should be adopted to limit the growth of aquaculture to within ecologically sustainable limits for any given catchment.

4.8.6 The trigger point to review the scale of aquaculture in a given catchment must be set at a level below the maximum sustainable pond area, or the catchment's ability to absorb current or future water demands.

4.9 *Intensive aquaculture within Marine Protected Areas*

4.9.1 Intensive aquaculture must not at any stage be considered as an acceptable use within the boundaries of a Marine Protected Area (MPA).

4.9.2 Existing extensive aquaculture leases within current MPAs must only be allowed to operate within existing areas with no scope for expansion into other areas of an MPA.

4.9.3 Operational Plans for individual MPAs should outline strategies for removal of existing aquaculture leases including sunset clauses for non-renewal of leases.

4.9.4 The Nature Conservation Council does not endorse the expansion of intensive aquaculture into estuaries, bays or coastal lakes and other environmentally sensitive areas in NSW.

4.10 ***Production of Genetically Modified Fish by Aquaculture***

4.10.1 Production of Genetically Manipulated Organisms (GMOs) by any aquaculture activity must be made illegal under the *Fisheries Management Act 1994*, as the risk of corrupting the genetic constitution of wild species is too high.

4.10.2 Legislative processes should oblige aquaculture proponents to develop strategies for recapturing non-endemic, non-native and GM species that have accidentally escaped.