

MARINE POLICY 2004

Endorsed by the Annual Conference of the Nature Conservation Council of NSW, October 2004, amended and endorsed by Annual Conference 2009. (This Amended Policy replaces the NCC Marine Policy, 1992)

1. *Preamble*

Planet Earth is, perhaps, misnamed - three quarters of its surface is water. Despite the preponderance of water, the major environmental concerns over the past century have been landbased - indeed the very vastness of the oceans has encouraged the belief that they were immune from adverse impacts.

It is now accepted by State, Territory and Federal Governments that we have a responsibility to appropriately manage our marine areas. Yet our knowledge and the implementation of appropriate management regimes have significantly lagged behind similar terrestrial processes. In the Australian context, Federalism complicates achieving an appropriate management regime for coastal waters. State jurisdiction is limited to three nautical miles from the coast but the boundaries between State and Federal waters, and between State jurisdictions, are merely for administrative (in)convenience and do not reflect fundamental biophysical processes.

Marine conservation has taken some significant steps forward over the last five years with the development of a National Oceans Policy and the establishment of a Marine Parks Authority in NSW. However, the opportunities these developments provide have yet to be fully utilized with less than 2% of NSW waters protected in sanctuary or no-take zones and heavy industry such as gas drilling in our marine environment continuing to be encouraged.

2. *Principles*

- 2.1 Recognising that:
- the seas and oceans support a substantial component of global diversity;
 - the habitability of the globe is dependant on oceanic processes;
 - Australia is responsible for the largest marine Economic Exclusion Zone on the planet; and
 - over 90% of species in South-Eastern Australia are endemic to the region;

The Nature Conservation Council of NSW (NCC) calls on:

- (a) the Australian Government to take all possible steps to promote the protection of the global oceanic environment; and

- (b) all State and Territory Governments, in collaboration with the Australian Government, to develop and implement common objectives for the protection and management of Australia's marine and estuarine environment.
- 2.2 The objectives for Local, State, Territory and Australian Governments must include:
- (a) A comprehensive regional marine planning system for all marine waters;
 - (b) Expansion of the network of marine and estuarine protected areas to include a minimum of 20% of all ecotypes in sanctuary zones (equivalent to IUCN Category 1 and Category 2);
 - (c) Protection and recovery of all threatened marine species and abatement of key threatening processes;
 - (d) A substantial reduction of pollutants and debris entering the marine environment;
 - (e) The ethical and ecologically sustainable harvesting of species where targeting is permitted;
 - (f) Management of exploitative industries to minimise adverse impacts;
 - (g) Control and elimination of introduced marine pests and the prevention of new introductions;
 - (f) Planning to mitigate the effects of global warming on the marine environment; and
 - (g) Maintenance and protection of marine ecological processes.

3. Objectives

3.1 Regional Marine Planning

Activities within NSW marine waters are controlled and regulated by a number of government agencies as an extension of their terrestrial responsibilities. The exception to this is the Marine Parks Authority that has specific responsibilities for the creation and management of marine parks. However even this Authority is jointly managed by the National Parks Division of the Department of Environment and Conservation, the Agriculture and Fisheries Division of the Department of Primary Industries and the Premier's Department. This situation frequently leads to an 'out of sight, out of mind' scenario where marine conservation issues receive lesser priority and resourcing compared to equivalent terrestrial issues.

In the terrestrial environment there is a general acceptance of the need for land use planning and, under various planning instruments, activities are provided for under zoning schemes (there are, of course, concerns about the execution of the planning process). Marine issues must be incorporated into regional planning and management processes; government agencies must work together to protect our marine environment. Appropriate zonings must be applied to our entire marine environment, not only through the marine parks system, but through the use of zonings to control developments, including extractive industries and fisheries.

3.2 Marine Protected Areas

Marine parks are the main form of marine protected areas (MPAs) in NSW and are administered under the Marine Parks Act. There are also a number of smaller

aquatic reserves and intertidal protected areas. The management of marine parks permits a wide range of exploitative and non-exploitative uses. There needs to be a greater emphasis on the no-take or sanctuary zone elements of marine park planning to ensure that the marine environment is appropriately protected.

MPAs should not be seen in isolation but as components within a wider management regime for the marine environment. Management of areas adjacent to MPAs should be in sympathy with the maintenance of the values of the protected areas and no activities with the potential for adverse impacts should be permitted in the vicinity of MPAs.

NCC calls for:

- 3.2.1 an expansion of the network of marine and estuarine protected areas so as to:
 - be comprehensive, adequate and representative, with at least 20% of all habitats within each bioregion protected in no-take or sanctuary zones by 2010;
 - include sites of outstanding value (outstanding in terms of high biodiversity value, major biogeographic boundaries, major breeding grounds, geomorphology, regional importance);
 - protect habitats/areas important for the maintenance, at a regional level, of biodiversity and abundance (including areas such as beaches, intertidal wetlands and seagrass beds); and
 - provide for those recreational, scientific and educational activities which have minimal environmental impacts;
- 3.2.2 MPAs to be developed as part of a management regime that encompasses the whole of the State's territorial seas, including estuaries and the intertidal zone, and the co-terminous waters under Federal jurisdiction out to 200 nautical miles;
- 3.2.3 MPAs within NSW territorial waters to be administered and managed by the Department of Environment and Conservation independently of, but in consultation with the Department of Primary Industries. This will ensure that science-based conservation remains the primary focus for marine parks while ensuring the needs of resource users are considered;
- 3.2.4 The selection of MPAs to be based on the best scientific advice available;
- 3.2.5 All waters adjacent to terrestrial national parks or reserves to be appropriately protected to a level that complements the aims for the terrestrial area;
- 3.2.6 The moratorium on any form of mining, oil, gas, mineral or sand exploitation in marine parks or aquatic reserves to be maintained;
- 3.2.7 Management plans for marine parks be required to outline permitted activities and include key management targets that are assessed regularly and subject to public review;
- 3.2.8 Further support for the efforts of indigenous communities to develop MPAs in areas of traditional and cultural significance; and

3.2.9 Public participation in the marine park planning process. In NSW this must involve at least two environmental representatives on the Marine Parks Advisory Council and each marine park committee, including one representative nominated by NCC and one representative nominated by the National Parks Association of NSW.

3.2.10 'No-take' or Sanctuary Zones should provide the highest level of marine protection available where the fishing of, the removal of or harm to any plants or animals, whether for commercial, recreational or cultural reasons, is prohibited. See the *Aboriginal Policy* for further details.

3.3 Threatened Species and Key Threatening Processes

Over-exploitation of our marine environment has led to a serious decline in a number of marine species. This has resulted in the declaration of several threatened marine fauna and flora species. Marine sanctuary zones are the central mechanism for protecting threatened species. Our relative lack of knowledge about the marine environment and its processes means we must employ the precautionary principle and create more protection rather than less for our threatened marine species.

NCC calls for:

3.3.1 The maintenance of an independent Fisheries Scientific Committee to determine the threatened species and ecological community listings;

3.3.2 The immediate development and release of recovery and threat abatement plans for all threatened marine species and ecosystems and key threatening processes;

3.3.3 Adequate resources to be committed by Government for appropriate recovery and threat abatement activities; and

3.3.4 Threatened species recovery to be managed under the auspices of the Minister for the Environment, but incorporated into and applied through fisheries management strategies.

3.4 Pollutants and Marine Debris

3.4.1 Chronic pollutants and marine debris

Pollution in our marine environment can have serious negative impacts ranging from smothering vegetation and causing toxic accumulations of heavy metals, to the death of marine mammals through the ingestion of debris. Sources of pollutants in the marine environment include general litter as well as land and water-based sources of chronic pollution, e.g. industrial discharges, pesticides, and oil-rigs, etc.

NCC calls for:

- (a) The elimination of marine pollution from land and marine-based sources, consistent with the MARPOL principle;

- (b) the Australian Government to promote implementation of the International Convention on the Law of the Sea as it relates to marine pollution;
- (c) the adoption of the principle of zero discharge of pollutants likely to harm human health or the natural environment;
- (d) catchment management strategies to be designed to reduce and mitigate the impacts of land-based point and non-point pollution sources;
- (e) a comprehensive education program to raise awareness of the impacts of marine debris;
- (f) the banning of discharge of untreated sewage from any vessel in estuarine or marine waters; and
- (g) a requirement for compulsory pilotage on tankers and large vessels through the sensitive marine areas as is currently done through Great Barrier Reef region and the Torres Strait.

3.4.2 Sea Dumping

Historically dumping at sea has been viewed as a convenient way of disposing of materials that were difficult to treat on land. Despite an increasing recognition that this is not environmentally sound, dumping at sea continues.

NCC calls for:

- (a) a mandatory goal of the phasing out of dumping at sea; and
- (b) implementation of the proposed 1993 London Dumping Convention target for phasing out dumping of toxic substances.

In the interim, the NSW Government should:

- (a) formalise administrative arrangements and develop explicit criteria for the granting of permits in NSW waters; and
- (b) require all dumping, including dumping of dredge soil, to be subject to an EIS process that it is to be placed on public exhibition prior to the granting of permits.

3.5 Mining and Mineral Exploration

3.5.1 Planning Framework

Mining and mineral extraction is taken to include the extraction of hydrocarbons and all minerals including sand and aggregate. With the exception of oil production, mining activity in Australian waters has been limited both in extent and activity.

NCC would prefer alternative non-marine sources of production, but where mining projects do exist, the NCC believes such activities should only occur within a planning framework and should be subject to full environmental

assessment and very strict controls over all phases of the activity. All mining activities should comply with the principles outlined in the NCC Policy: *Non-renewable Resources Extraction and Processing (Mining)*.

Proposals have been advanced to extract minerals from the deep ocean floor. The most mineral rich areas are associated with hydrothermal vents. The deep ocean floor is a poorly understood environment but is known to support a diversity of life forms.

NCC calls upon the Australian, State and Territory Governments to:

- (a) impose an absolute moratorium on further mineral exploration and sand and minerals exploitation in Australian territorial waters, until management authorities have carried out studies of the nation's marine environment to ensure identification of:
areas to be incorporated into marine and estuarine protected areas, including areas of high environmental sensitivity (e.g. replenishment sands);
areas in which fisheries management has priority;
areas of cultural heritage significance; and
areas in which various forms of development might be permitted following detailed environmental impact studies;
- (b) refrain from any oil, sand or minerals exploration or extraction in areas identified in 3.5.1 (a);
- (c) establish clear guidelines and regulations to safeguard environmentally sensitive and/or protected areas from adjacent exploitation activities; and
- (d) ban mining of the deep oceans.

3.5.2 Exploration

NCC calls for research into the impact of seismic survey methods on marine organisms (especially cetaceans, threatened species and commercially exploited fish species).

In areas where mining or drilling may be permitted, the NCC calls for:

- (a) all proposals to be subject to an EIS based on site specific studies;
- (b) no large scale or high intensity seismic survey to be permitted until the potential impacts have been addressed in an EIS prior to the commencement of exploration;
- (c) exploration leases must include mandatory and legally enforceable codes of practice that outline minimum operating requirements that are legally enforceable;
- (d) exploration to involve minimal disturbance to the environment and stringent environmental safeguards to minimum pollution impacts from both exploration and operation; and

- (e) no seismic surveys to be permitted in known migration tracks of whales during periods when migration is occurring.

3.5.3 Mining and Oil and Gas Production

Where mining or hydrocarbon extraction is permitted, stringent controls on operations will be necessary in order to minimise the extent of disturbance and the risk of pollution.

NCC calls for:

- (a) full EIS procedures to be required (for mineral extraction, oil or gas production) prior to exploitation; and
- (b) stringent controls on all activities connected with exploitation to be set down, enforced and monitored for compliance in order to minimise the extent of disturbance and risk of pollution

3.5.4 Public Participation

Public participation should be considered to be an integral element of all phases of marine environment policy development and management, and is essential in relation to proposals to exploit the marine environment.

NCC calls for:

- (a) all applications for mining and exploration leases to be publicly advertised (in at least one publication of state wide circulation) and subject to public comment. Applications should be reviewed in the light of these comments by an appropriate authority, and decisions made public (including a full account of the reasons for those decisions);
- (b) once granted, any conditions on mining or exploration licences not to be changed except by a public review process in which the proponent advertises the changes sought, and followed by a formal assessment in which submissions from interested parties are considered; and
- (c) third party appeal rights to be available for mining and exploration licence decisions.

3.6 Harvesting of Living Marine Creatures

See the NCC *Aquaculture and Fisheries Policy* for further information on the harvesting of fish for commercial and recreational purposes. The NCC Marine Policy deals with species that are not targeted by commercial and recreational fishers in NSW.

The fundamental principal that NCC applies to the consideration of the harvesting of living marine creatures is that it must be demonstrated that any harvesting is ethical and ecologically sustainable and does not cause any adverse environmental effects.

3.6.1 Marine Mammals

NCC calls for:

- (a) Continuing opposition to the harvesting of all marine mammals and for the further development of sanctuary zones;

- (b) The Australian Government to use international fora to develop measures to eliminate the harvesting (deliberate and accidental) of smaller cetaceans;
- (c) The NSW Government to develop industry standards, in addition to existing regulatory measures, for minimizing impacts on marine mammals from the tourism industry; and
- (d) The NSW Government to require the tourism industry to contribute financially to the development and operation of marine mammal management and recovery programs.

NCC acknowledges the significance of the taking of marine mammals by indigenous peoples for the purpose of the maintenance of traditional lifestyles and cultures, but only supports the practice where the practice is non-commercial, the number of animals is sustainable and where the method involved does not involve prolonged or unnecessary cruelty.

Australia has played an important role in developing an International Whaling Convention moratorium on commercial whaling and in developing international sanctuary zones for whales. NCC strongly supports these endeavours and encourages the Australian Government to continue its efforts to prevent the reintroduction of commercial whaling and create sanctuary zones for whales on the high seas.

3.6.2 Marine Turtles

Australia has a unique responsibility to protect marine turtles with 6 of the world's 7 species occurring in Australia. With all marine turtles in Australia listed as threatened, urgent recovery action is required.

NCC calls for:

- (a) Continuing efforts to control the trade in turtle products which are implemented through CITES and urges the Australian Government to persuade more nations to become parties to CITES;
- (b) The Australian Government to continue its efforts to enhance recovery of turtle populations and work with our Pacific neighbours to implement recovery programs; and
- (c) The NSW Government to contribute to national turtle recovery programs as required.

NCC acknowledges the significance of the taking of marine turtles by indigenous peoples for the purpose of the maintenance of traditional lifestyles and cultures, but only supports the practice where the practice is non-commercial, the number of animals is sustainable and where the method involved does not involve prolonged or unnecessary cruelty.

3.6.3 Sea and Shorebirds

NCC supports full protection, with no harvesting, for all marine birdlife with one exception (see below). This protection must include measures to prevent

incidental capture and kill from activities such as long-lining. It must also recognise that many species of sea and shorebirds travel extensively and that their conservation is a global responsibility.

NCC calls for:

- (a) Australian, State and Territory Governments to recognise their obligations under RAMSAR, JAMBA and CAMBA and use their planning and regulatory powers to ensure that habitats utilised by migratory birds are protected;
- (b) Australian, State and Territory Governments to develop wildlife conservation plans for all protected sea and shorebirds as per the Department of Environment and Heritage guidelines '*Issues to be considered in the development of a wildlife conservation plan for migratory shorebirds*';
- (c) The Australian Government to exercise its influence to support a full ban on global long-lining. If long-line fishing is continued, bycatch reduction techniques must be used; and
- (d) Muttonbirding to be confined to the short-tailed shearwater (*Puffinus tenuirostris*) by indigenous peoples from islands where there is a long established tradition of muttonbirding.

3.6.4 Intertidal Zone Species

NCC opposes the commercial and non-commercial harvesting of living resources from the intertidal zone and calls for the immediate protection of these areas and of the ecological communities on which they depend. NCC acknowledges the significance of the taking of intertidal zone species by indigenous peoples for the purpose of the maintenance of traditional lifestyles and cultures, but only supports the practice where the number of animals is for personal or traditional use and is ecologically sustainable.

3.6.5 Antarctic Waters

The Australian Government should use all available opportunities to promote the development of a binding management regime for Antarctic waters, the primary objectives of which should be the stability of the region's ecology and the maintenance of natural biodiversity.

3.6.6 Krill

In the absence of a management regime for the Antarctic region, NCC expresses total opposition to the commercial harvesting of krill and other planktonic organisms from Antarctic waters.

3.6.7 Marine Vegetation

Many species of marine vegetation, such as seagrasses and kelp, have been recognized as vulnerable to anthropogenic impacts and have received protection. However there is a growing interest, particularly from the medical trade, in the harvesting and use of marine vegetation. In addition to existing uses of kelp for agar and seaweeds for fertilizer, there is an increasing need to better manage extraction and use of marine vegetation.

NCC calls on the NSW Government to ensure that any emerging industries based on the exploitation of marine vegetation, undertake a full environmental impact study that is based on good scientific knowledge and an open and transparent process before exploitation can commence.

3.6.8 Seamounts, Deep Sea Corals and Other Vulnerable Deep Sea Habitats
NCC supports the 'Draft IUCN Resolution On The Protection of Seamounts, Deep Sea Corals and Other Vulnerable Deep Sea Habitats from Bottom Trawl Fishing on the High Seas'.

Recognizing recent scientific investigations documenting previously undiscovered species, very high endemism rates, the extreme vulnerability of seamount, deep sea coral, and other deep sea habitats to deep sea bottom trawl fishing, that bottom trawl fishing is completely unregulated in extensive areas of the high seas, and that few if any of the Regional Fisheries Management Organizations that have jurisdiction to control such fishing have done so to protect sensitive habitats:

NCC supports:

An immediate moratorium on high seas bottom trawling, pending the development and implementation of a legally binding regime(s) to protect deep sea biodiversity from high seas bottom trawling and to conserve and manage bottom fisheries of the high seas, consistent with the UN Convention on the Law of the Sea, the UN Fish Stocks Agreement (1995), the FAO Compliance Agreement (1993), the Convention on Biological Diversity (1992) and the FAO Code of Conduct for Responsible Fisheries (1995).

3.7 Marine Pests

Marine pests have emerged as a significant threat to both the marine environment and economic activities that depend on our marine resources. The increase in international shipping has meant that there are increased opportunities for marine organisms to be transported throughout the world. In addition, Australia's large marine jurisdiction means that it is difficult to appropriately monitor all areas for the introduction of marine organisms.

While not all introduced marine organisms will become established as marine pests, the aim of any management regime must be to prevent introductions from occurring and to control and eliminate existing or newly introduced marine pests.

NCC calls on Federal, State and Territory Governments to:

- (a) Develop a consistent set of guidelines for the management of ballast water;
- (b) Implement a national program for the detection and monitoring of introduced pests;
- (c) Develop a national response program for elimination of identified introduced marine pests;
- (d) Enhance the community monitoring aspects of marine pest monitoring;

- (e) Develop and implement protocols to prevent transfer of introduced marine pests between ports;
- (f) Develop and implement appropriately resourced eradication programs for all existing marine pests; and
- (g) Develop guidelines and processes, including the use of temporary closed areas, and undertake education programs to prevent the transfer of marine pests by recreational vessels.

3.8 Global Warming

The marine environment is an important buffer against the impact of global warming through its role as a major carbon sink. However, changes to the global environment will potentially be exacerbated by changes to ocean currents brought on by rising temperatures.

Further, global warming is a significant threat to marine and intertidal habitats and organisms particularly through sea level rise. Coral reefs, seagrasses, kelp forests and saltmarsh are ecosystems that have been identified as particularly under threat. Planning for sea level rise and global warming must begin now to ensure these changes do not completely devastate the marine environment.

NCC calls for:

- (a) The Australian, State and Territory Governments to take all possible steps to reduce greenhouse gas emissions;
- (b) The NSW Government to build knowledge of the impacts of global warming into current planning decisions and ensure that future coastal developments recognize the need for intertidal and marine ecosystems to migrate landward in response to sea level rise; and
- (c) The Australian, State and Territory Governments to ensure that greenhouse mitigation strategies and planning decisions do not impact negatively on the marine environment.

3.9 Marine Ecological Processes

It is important to recognize that the integrity of the marine environment depends on its ability to maintain complex and interacting ecological processes. Examples of these processes range from species interactions and recruitment, to nutrient cycling. These processes must be protected if we are to maintain a healthy marine environment.

NCC calls for the Australian, State and Territory Governments to:

- (a) Ensure that all decisions affecting the marine environment consider the need to protect and maintain ecological processes; and
- (b) Ensure that management activities, for example beach cleaning, do not disrupt vital ecological processes, such as nutrient cycling.

Glossary

Global Warming

The progressive gradual rise of the earth's surface temperature thought to be caused by the greenhouse effect and responsible for changes in global climate patterns. An increase in the near surface temperature of the Earth. Global warming has occurred in the distant past as the result of natural influences, but the term is most often used to refer to the warming predicted to occur as a result of increased emissions of greenhouse gases.

London Convention

Dumping at sea of waste generated on land and loaded on board specialized dumping vessels had been carried out for several years by industrialized countries before international rules to prevent marine pollution from this practice entered into force with the London Convention 1972, previously known as the London Dumping Convention, (International Convention on Offshore Dumping 1975)

Marine Debris

Pollution by human generated objects or as anthropomorphic solid matter in the sea.

Marine Pests

Marine pests are generally marine organisms that do not occur naturally in NSW waters but have been brought in through ship ballast, or escaped from aquaria. Marine pests can have severe ecological and economic impacts. For example, they can take over large areas of habitat to the detriment of native species. Some prey directly on native species or compete with them for food. Pest species can also cause considerable economic damage. Infestations of marine pests can impact on marine industries, such as aquaculture, commercial and recreational fishing and boating, tourism and even international and domestic shipping. Some marine pests, such as toxic dinoflagellates, can threaten public health.

Marine Protected Areas

Marine Protected Areas (MPAs) are areas of intertidal or subtidal terrain, together with their waters and associated flora and fauna, which have been reserved to protect their environment for conservation, education and historic purposes and because of their intrinsic value. In 1997, the NSW Government passed Legislation (the Marine Parks Act 1997) to establish a comprehensive system of marine parks in NSW. Marine parks are large marine protected areas that are designed to conserve all forms of marine life.

The three other types of marine protected areas in NSW are:

aquatic reserves: areas that are smaller than marine parks, created to conserve biodiversity at unique and specific sites (declared under the *Fisheries Management Act 1994*);

the marine components of national parks or nature reserves: created to protect landscapes, ecosystems, natural features and all forms of life including mammals, seabirds and vegetation, other than fish (declared under the *National Parks and Wildlife Act 1974*); and

intertidal protected areas.

MARPOL

The *International Convention for the Prevention of Pollution from Ships 1973, and Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships (MARPOL 73/78)* aims to prevent pollution from disposal of oil, noxious liquids, harmful packaged substances and garbage from ships. This prohibition applies to all ships, including recreational craft.

Sanctuary Zones

Provide the highest level of marine protection available where the removal of or harm to any plants or animals is prohibited.