

The Senate

Environment and Communications
Legislation Committee

Environment Protection and Biodiversity
Conservation Amendment (Bioregional Plans)
Bill 2011

June 2011

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Abbreviations

ACF	Australian Conservation Foundation
AFTA	Australian Fishing Trade Association
AMCS	Australian Marine Conservation Society
the Bill	Environment Protection and Biodiversity Conservation Amendment (Bioregional Plans) Bill 2011
the Department	Department of Sustainability, Environment, Water, Population and Communities
the EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
IUCN	International Union for the Conservation of Nature
the NRSMPA	National Representative System of Marine Protected Areas

Chapter 1

Background to the inquiry and the Bill

Conduct of the inquiry

1.1 On 3 March 2011, the Senate referred the Environment Protection and Biodiversity Conservation Amendment (Bioregional Plans) Bill 2011 to the Senate Environment and Communications Legislation Committee for inquiry and report by 13 May 2011. On 24 March 2011, the Senate granted an extension of time until 9 June 2011. The reporting date was subsequently extended to 15 June 2011.

1.2 The Environment Protection and Biodiversity Conservation Amendment (Bioregional Plans) Bill 2011 (the Bill) is a private Senator's bill to amend the *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act). The Bill was introduced by Senator the Hon Richard Colbeck on 2 March 2011. On 18 April 2011, Senator Colbeck forwarded to the committee a proposal to further amend the EPBC Act (Appendix 1). At the time of writing, the additional proposed amendment has not been presented to the Senate. This report addresses both the Bill and the proposed amendment.

1.3 The committee advertised the inquiry on its website and in *The Australian*, and invited submissions from interested organisations and individuals. The committee received 31 submissions and four supplementary submissions, as listed in Appendix 2. A public hearing was held in Canberra on 13 May 2011. A list of witnesses who gave evidence at the public hearing is at Appendix 3. The committee thanks the organisations and individuals that made written submissions, and those who gave evidence at the public hearing.

Note on references

1.4 References to submissions in this report are to individual submissions received by the committee and published on the internet.¹ References to the committee Hansard are to the proof transcript.² Please note that page numbers may vary between the proof and official Hansard transcripts.

1 Submissions to the inquiry are available at:
www.aph.gov.au/senate/committee/ec_ctte/bioregional_plans/submissions.htm
(accessed 8 June 2011).

2 Transcripts of the committee's public hearing for the inquiry can be accessed at:
www.aph.gov.au/senate/committee/ec_ctte/bioregional_plans/hearings/index.htm
(accessed 8 June 2011).

Report structure

1.5 This report is divided into three substantive chapters. Chapter one provides an overview of the current process of establishing bioregional plans and Commonwealth marine reserves compared to the process proposed in the Bill. Chapter two considers matters raised for and against the Bill during the course of the committee's inquiry. Chapter three outlines matters raised that are outside the scope of the Bill.

Background and description of the Bill

Bioregional plans

1.6 The Bill would amend the EPBC Act to alter the process by which bioregional plans are made.³ Bioregional plans form part of Australia's environment management strategy.⁴ They provide an overview of a region's biodiversity and conservation values, and may establish objectives in relation to the values and strategies to achieve the objectives.⁵ In addition, the plans may include an overview of the region's key ecological features, an analysis of regional pressures, and information to assist persons to determine whether to seek the Environment Minister's approval before conducting certain activities in the region.⁶ In this way a marine bioregional plan provides increased certainty for people undertaking activities in marine environments. They can more easily understand what the values in a region are and whether their activity may require environmental approvals. While the majority of plans cover marine areas in Commonwealth waters, the plans may also be established for land-based regions.⁷

1.7 The Department of Sustainability, Environment, Water, Population and Communities (the Department) advised that the plans are non-binding as they do not declare or alter a person's rights or obligations. Their purpose is to inform the administration of the EPBC Act.⁸ The Minister is required to have regard to bioregional plans in making certain decisions under the Act.⁹ Such decisions include

3 Item 1, Schedule 1, Environment Protection and Biodiversity Conservation Amendment (Bioregional Plans) Bill 2011.

4 Department of Sustainability, Environment, Water, Population and Communities, *About marine bioregional planning – Frequently asked questions*, www.environment.gov.au/coasts/mbp/about/faqs.html (accessed 17 May 2011); Department of Sustainability, Environment, Water, Population and Communities, *Overview – Overview of marine bioregional plans*, May 2011, p. 1.

5 *Environment Protection and Biodiversity Conservation Act 1999*, ss. 176(4).

6 Department of Sustainability, Environment, Water, Population and Communities, *Overview – Overview of marine bioregional plans*, pp 5–6.

7 Department of Sustainability, Environment, Water, Population and Communities, *Submission 29*, p. 3.

8 Department of Sustainability, Environment, Water, Population and Communities, *Submission 29*, p. 4.

9 *Environment Protection and Biodiversity Conservation Act 1999*, ss. 176(5).

fisheries export approvals, listing and recovery of species and ecological communities, and approvals for proposed activity in Commonwealth waters.¹⁰

1.8 More broadly, bioregional plans are intended to promote environment management and conservation values. The information contained in the plans is intended to foster a cross-jurisdictional approach to ecosystem management by Commonwealth, state and territory agencies. The plans are also designed to enhance community understanding of environmental management, and encourage decision-making by private industry that is consistent with environmental management principles.¹¹

1.9 While bioregional plans are not binding on persons, the committee notes that the decisions that may be informed by bioregional plans can impact rights and obligations. For example, without prior ministerial approval it is an offence to act in a manner which damages, or is likely to damage, Commonwealth waters.¹² The Minister may grant approval, and therefore an offence may be avoided, where the proposed activity is consistent with a bioregional plan.¹³

1.10 The Department advised that there are five steps to the process of developing bioregional plans. These are:

Characterisation of the region, including its natural systems and conservation values: a bioregional profile for each region brings together the available scientific information about a region's biophysical and broad socio-economic characteristics and conservation values.

Regional assessment of the conservation values: this step consolidates information about the conservation values, their status and the pressures on them. The assessment is being used to categorise pressures on conservation values and identify regional priorities in relation to managing these pressures.

Development and release of a draft marine bioregional plan: consultation with stakeholders and the community provides essential input in developing a marine bioregional plan. The EPBC Act requires the Minister to consult publicly on a draft of the plan [...]

Release of the marine bioregional plan: following the Minister's consideration of all input received on the draft plan it is finalised and released.

10 Department of Sustainability, Environment, Water, Population and Communities, *Overview – Overview of marine bioregional plans*, p. 7.

11 Department of Sustainability, Environment, Water, Population and Communities, *Overview – Overview of marine bioregional plans*, pp 7–8.

12 *Environment Protection and Biodiversity Conservation Act 1999*, s. 24A. Under section 23 of the EPBC Act, such activities may also be subject to civil penalties.

13 *Environment Protection and Biodiversity Conservation Act 1999*, s. 37A.

Update and review of the marine bioregional plan: plans are reviewed periodically to accommodate new information and data about conservation values and the pressures acting upon them, regional priorities and government policy priorities, and management and regulatory arrangements.¹⁴

1.11 Section 176 of the EPBC Act outlines the framework for establishing bioregional plans. Of the five steps, public consultation is expressly required under subsection 176(1). In undertaking public consultation, the Minister must publish, via the internet and relevant newspapers, a notice that includes an overview of the draft plan and the process and timeframe for providing public comment.¹⁵

Proposed amendments to the process of establishing bioregional plans

1.12 Bioregional plans are not legislative instruments and are not subject to parliamentary disallowance. The Bill would amend the EPBC Act to make bioregional plans disallowable instruments under section 46B of the *Acts Interpretation Act 1901*.¹⁶ While bioregional plans would continue to be non-legislative instruments, the amendment would authorise either House of Parliament to disallow a bioregional plan in accordance with Part 5 of the *Legislative Instruments Act 2003* as modified by section 46B of the Acts Interpretation Act. The amendment would not operate retrospectively, but would apply only to bioregional plans made after the commencement of the provisions in the Bill.

1.13 The amendment would require bioregional plans be tabled in each House of Parliament within six sitting days of being made. If not laid before both Houses within this timeframe, the bioregional plan would cease to have effect.¹⁷ Once tabled, both Houses of Parliament would have 15 sitting days in which to give a notice of motion to disallow the bioregional plan. If the motion is agreed to or has not been withdrawn within a further 15 sitting days, the bioregional plan would be taken to have been disallowed and would cease to have effect from the date of the disallowance.¹⁸ Therefore, even once a bioregional plan had commenced, the disallowance process would mean that there would be a period of up to 36 sitting days in which it would be uncertain whether the bioregional plan would continue to operate. Based on the 2011 Parliamentary sitting pattern, this could translate to up to 180 calendar days, that is, approximately six months.

14 Department of Sustainability, Environment, Water, Population and Communities, *Submission 29*, p. 5.

15 *Environment Protection and Biodiversity Conservation Regulations 2000*, r. 16.05B.

16 Item 1, Schedule 1, Environment Protection and Biodiversity Conservation Amendment (Bioregional Plans) Bill 2011.

17 *Acts Interpretation Act 1901*, ss. 46B(9)–(10).

18 *Acts Interpretation Act 1901*, ss. 46B(11); *Legislative Instruments Act 2003*, s. 42, s.45–s.48.

Commonwealth marine reserves

1.14 Senator Colbeck's proposed amendment to the Bill would amend the EPBC Act to alter the process for establishing Commonwealth marine reserves.¹⁹ Section 344 of the EPBC Act allows the Governor-General to make Proclamations to establish Commonwealth reserves. Commonwealth reserves may apply to an area of land, an area of sea, or an area of both land and sea. Reserves covering areas of the sea and areas of both land and sea are commonly known as 'Commonwealth marine reserves'.²⁰ Commonwealth marine reserves applying to an area of sea can cover either a Commonwealth marine area, that is an area within Commonwealth waters, or an area outside Australia for which Australia has obligations regarding the area's biodiversity or heritage under an agreement with one or more country.²¹

1.15 The bioregional planning process may be used to identify areas in which to establish future Commonwealth marine reserves. Along with the state and territory governments, the Australian Government has committed to establishing a National Representative System of Marine Protected Areas (the NRSMPA) by 2012.²² The NRSMPA has been under development by the Commonwealth, state and Northern Territory governments since its creation was first agreed by these jurisdictions in 1998.²³

1.16 The NRSMPA is a network of marine reserves across Commonwealth, state and territory waters, of which Commonwealth marine reserves form one part.²⁴ As of

19 Item 2, Schedule 1, Senator the Hon Richard Colbeck, correspondence, 18 April 2011, www.aph.gov.au/senate/committee/ec_ctte/bioregional_plans/submissions.htm (accessed 1 June 2011).

20 Department of Sustainability, Environment, Water, Population and Communities, *Submission 29*, p. 6.

21 *Environment Protection and Biodiversity Conservation Act 1999*, subpara. 344(1)(b)(i) and subpara. 344(1)(b)(ii).

22 Department of Sustainability, Environment, Water, Population and Communities, *Goals and principles for establishing the National Representatives System of Marine Protected Areas in Commonwealth waters*, www.environment.gov.au/coasts/mbp/publications/general/goals-nrsmpa.html (accessed 20 May 2011).

23 Department of Sustainability, Environment, Water, Population and Communities, *Submission 29*, p. 2.

24 Department of Sustainability, Environment, Water, Population and Communities, *Goals and principles for establishing the National Representatives System of Marine Protected Areas in Commonwealth waters*. The Proclamation to establish the Zeehan Commonwealth Marine Reserve, dated 28 June 2007, states that the reserve is 'for the purpose of protecting and maintaining biological diversity and contributing to the National Representative System of Marine Protected Areas'.

24 March 2011, there are 26 Commonwealth marine reserves.²⁵ The NRSMPA is intended to establish a marine protection strategy that is:

Comprehensive – include marine protected areas that sample the full range of Australia’s ecosystems,

Adequate – include marine protected areas of appropriate size and configuration to ensure the conservation of marine biodiversity and integrity of ecological processes, and

Representative – include marine protected areas that reflect the marine life and habitats of the area they are chosen to represent.²⁶

1.17 Commonwealth reserves and Commonwealth marine reserves are also part of the Australian Government's implementation of the *Guidelines for Protected Area Management Categories* developed by the International Union for the Conservation of Nature (IUCN). Each reserve is assigned an IUCN category, which influences the management policies applying to the reserve.²⁷

1.18 The EPBC Act requires a number of steps, including a process of public consultation, to be undertaken before a Proclamation to establish a Commonwealth reserve or Commonwealth marine reserve is made. The Minister is to have regard to a report prepared by the Director of the National Parks regarding the proposed reserve.²⁸ In preparing the report, the Director of National Parks is required to invite public comment and allow 60 days for comments to be received. The comments, and the Director's views regarding the comments, are to be noted in the report.²⁹ The Minister is also required to be satisfied that the appropriate IUCN category will be applied to the proposed reserve.³⁰

1.19 Information provided on the Department's website outlines the process for declaring a Commonwealth reserve or Commonwealth marine reserve as follows:

Step 1. The Director of National Parks publishes a notice inviting the public to comment on the proposal to declare a Commonwealth reserve over the area, allowing a minimum period of 60 days for comments. This notice includes a statement of the proposed name of the reserve, the proposed boundaries of the reserve and any zones within the reserve, the purpose for

25 Department of Sustainability, Environment, Water, Population and Communities, *Submission 29*, pp 9–10. This does not include the Great Barrier Reef Marine Park.

26 Department of Sustainability, Environment, Water, Population and Communities, *Submission 29*, p. 7; National Heritage Trust, *Australia's marine protected areas – protecting our coasts and oceans*, 2003, p. 1.

27 *Environment Protection and Biodiversity Conservation Act 1999*, s. 348; National Heritage Trust, *Australian IUCN reserves management principles for Commonwealth marine protected areas*, 2002, p. i.

28 *Environment Protection and Biodiversity Conservation Act 1999*, ss. 351(1).

29 *Environment Protection and Biodiversity Conservation Act 1999*, ss. 351(2); ss. 351(5).

30 *Environment Protection and Biodiversity Conservation Act 1999*, s. 347.

which the reserve is to be declared, the IUCN category that the reserve (and any zones) will be assigned to, and the purposes for which it is intended to manage and use the reserve.

Step 2. Any native title holders, registered native title claimants and native title representative bodies for the area are notified of the proposed declaration, and given an opportunity to comment, in accordance with the requirements of the *Native Title Act 1993*.

Step 3. The Director of National Parks provides the [Minister for Sustainability, Environment, Water, Population and Communities] with a report on the Commonwealth reserve proposal. The report must include any comments received and the Director's views on the comments.

Step 4. If necessary a Regulation Impact Statement examining any impacts that declaration of the proposed Commonwealth reserve would have on business is prepared.

Step 5. [The Minister] considers the report from the Director of National Parks.

Step 6. The Minister decides not to proceed and thus the declaration process ends here OR the Minister is satisfied a reserve should be established and the Governor-General is advised accordingly.

Step 7. The Governor-General makes a Proclamation declaring the area to be a Commonwealth reserve...

Step 8. The Proclamation is registered on the Federal Register of Legislative Instruments.³¹

1.20 The Department advised that this consultation process exceeds the requirements under the EPBC Act:

A draft Commonwealth marine reserve network for each region will be published simultaneously with the draft Marine Bioregional Plan and a single public consultation process will cover both proposals. For the draft reserves network, however, this public consultation does not fulfil a statutory purpose and does not replace the statutory public consultation process required under section 351 of the *Environment Protection and Biodiversity Conservation 1999* (EPBC Act)...The government's preferred marine reserve network will then be subject to the processes of public consultation and reporting by the Director of National Parks, leading to a decision by the Minister as set down in the EPBC Act before the reserves are proclaimed by the Governor-General...³²

31 Department of Sustainability, Environment, Water, Population and Communities, 'Marine Protected Areas', www.environment.gov.au/coasts/mpa/legal.html#declaring (accessed 9 May 2011).

32 Department of Sustainability, Environment, Water, Population and Communities, *Submission 29*, p. 2.

1.21 During the course of the committee's inquiry an example of this dual consultation process was commenced. On 5 May 2011 the government announced the consultation process on the draft South-west Bioregional Plan and the associated proposed Marine Reserves Network. Minister Burke stated that 'we have extended the 60 day consultation period to 90 days to ensure people have every opportunity to provide feedback. The feedback and input the Government receives will assist in finalising the proposal for a new marine reserves network and bioregional plan for the south-west.'³³ This means that the marine reserve network will have a 90 day consultation period as well as the statutory consultation period.

Proposed amendments to the process of establishing Commonwealth reserves and Commonwealth marine reserves

1.22 Although Proclamations for Commonwealth reserves and Commonwealth marine reserves are legislative instruments, section 44 of the Legislative Instrument Act expressly states that the Proclamations are not subject to parliamentary disallowance. A Commonwealth reserve or Commonwealth marine reserve comes into being on the day a Proclamation commences. Unless the Proclamation specifies otherwise, the Proclamation will commence the day after it is registered on the Federal Register of Legislative Instruments.³⁴

1.23 The Bill would amend the process for establishing Commonwealth marine reserves. The proposed Item 2, Schedule 1 of the Bill would amend section 344 of the EPBC Act to make Proclamations for particular Commonwealth marine reserves disallowable instruments. The amendment would not operate retrospectively, but would affect Proclamations made after the commencement of the provisions in the Bill.

1.24 Item 2 only applies to Proclamations for Commonwealth marine reserves covering Commonwealth waters or an area of both land and sea. The proposed amendment would not affect Proclamations for Commonwealth reserves over land areas or Proclamations for Commonwealth marine reserves for an area of sea that is outside Australia but for which Australia has international obligations.

1.25 The disallowance timeframes for a Proclamation of a Commonwealth marine reserve are similar to those outlined for bioregional plans in paragraph 1.13. The proposed amendment would require Proclamations for relevant Commonwealth marine reserves to be tabled in both Houses of Parliament within six sitting days of

33 The Hon Tony Burke MP, Minister for Sustainability, Environment, Water, Population and Communities, 'Draft South-West marine reserves released for community consultation', media release, 5 May 2011, www.environment.gov.au/minister/burke/2011/mr20110505.html (accessed 2 June 2011). Further information about the consultation process is available from www.environment.gov.au/coasts/mbp/south-west/ (accessed 2 June 2011).

34 *Legislative Instruments Act 2003*, s. 12. The Proclamation to establish the Zeehan Commonwealth Marine Reserve commenced 60 days after registration on the Federal Register of Legislative Instruments.

the instrument being registered. If not tabled, the Proclamation would cease to have effect from the day after the sixth sitting day.³⁵ Once tabled, both Houses of Parliament would have 15 sitting days in which to give a notice of motion to disallow the Proclamation. If the motion is agreed to or has not been withdrawn within a further 15 sitting days, the Proclamation would be taken to have been disallowed and would cease to have effect from that date.³⁶ Disallowance is not retrospective.³⁷ Therefore, if disallowed, the Proclamation would have had effect, and therefore the reserve would have been in existence, for up to 36 sitting days, which could equate to approximately six months. Without the approval of the House that disallowed the instrument, a further Proclamation to re-establish the Commonwealth marine reserve could not be made within six months of the disallowance.³⁸ The Legislative Instruments Act does not specify, and therefore does not limit, the grounds on which an instrument may be disallowed.

1.26 Parliament may disallow all or part of a legislative instrument.³⁹ There are several parts to a Proclamation to establish a Commonwealth reserve or a Commonwealth marine reserve. The Proclamation must:

- allocate a name to the reserve;
- state the purpose for which the reserve is declared;
- state the depth of any land included in the reserve;
- state the depth of the seabed that is under any sea included in the reserve; and
- assign an IUCN category to the reserve.⁴⁰

1.27 However, while this is possible under the disallowance process set out in the Legislative Instruments Act, if part of the Proclamation was disallowed the Proclamation would no longer meet the requirements of the EPBC Act.

Comment of the Scrutiny of Bills Committee

1.28 The Senate Standing Committee for the Scrutiny of Bills reviewed the Bill and had no comment on its provisions.⁴¹ The committee considered the Bill prior to Senator Colbeck circulating proposed amendments on 18 April 2011.

35 *Legislative Instruments Act 2003*, s. 38.

36 *Legislative Instruments Act 2003*, s. 42.

37 *Legislative Instruments Act 2003*, s. 45.

38 *Legislative Instruments Act 2003*, s. 48.

39 *Legislative Instruments Act 2003*, s. 42.

40 *Environment Protection and Biodiversity Conservation Act 1999*, s. 346.

41 Senate Standing Committee for the Scrutiny of Bills, *Alert Digest 3 of 2011*, 23 March 2011, p. 8.

Chapter 2

Matters raised in relation to the Bill

Comments in support of the Bill: concerns with existing decision-making processes

2.1 Submissions in support of the Bill typically argued that Parliamentary disallowance is necessary to ensure a transparent, democratic process for establishing bioregional plans and Commonwealth marine reserves. For example, in evidence to the committee, Dr Coghill submitted:

My clear perspective is that it is absolutely important to effective parliamentary democracy that the parliament have the opportunity to scrutinise, and if appropriate, disallow any action taken by the executive. It follows from that that I support the effect of the legislation as it seems to me that it would enable the parliament to scrutinise particular decisions by the relevant minister and, if after examination they felt so moved, to disallow such an instrument. My position is on that primary issue of accountability of the executive to the parliament.¹

2.2 While Dr Coghill's submission focused on what he characterised as a general principle for effective democracy,² similar views were expressed by marine industry stakeholders. Mr Russell Conway, Chair, Recfish Australia argued that 'including the public and their elected representatives in [the] decision-making process makes good sense and follows good governance guidelines'.³ Mr Wayne Bayne, Divisional Chair, Coral Sea Access Alliance, concurred, stating that '[e]lected parliamentarians should be afforded the right to participate in a decision that will affect those whom they represent'.⁴ Similarly, Marine Queensland submitted that Parliamentary participation is necessary to ensure fair and accountable decision-making:

As we see it at the moment the process is one where the minister has the ultimate decision-making power. This is not an aspersion against any persuasion of government but our view is that, consistent with any sort of natural justice type mechanism, it would also be appropriate that an additional review mechanism be an outcome.⁵

1 Associate Professor the Hon Dr Kenneth Coghill, *Proof Committee Hansard*, 13 May 2011, p. 1.

2 Associate Professor the Hon Dr Kenneth Coghill, *Proof Committee Hansard*, 13 May 2011, p. 1.

3 Mr Russell Conway, Chair, Recfish Australia, *Proof Committee Hansard*, 13 May 2011, p. 23.

4 Mr Wayne Bayne, Divisional Chair, Coral Sea Access Alliance, *Proof Committee Hansard*, 13 May 2011, p. 31.

5 Mr Donald Jones, Chief Executive Officer, Marine Queensland, *Proof Committee Hansard*, p. 32.

2.3 It was apparent that underling these views are concerns with the existing consultation processes for establishing bioregional plans and Commonwealth marine reserves. The Department advised that public consultation is intended to create 'a shared understanding of the conservation objectives and priorities in a region' and promote decisions that are 'based on accurate information'.⁶

2.4 However, it was put to the committee that the consultation process fails to meet these objectives. Mrs Judy Lynne, Executive Officer, SunFish Queensland, argued that the consultation process does not ensure that community views appropriately inform Ministerial decisions:

As for input, once again, it goes back to a lot of the input that we have had through the whole process. We have been given the opportunity to have our say, but a lot of that does not appear anywhere in any of the results or the outcomes. A perfect example would be, right at the very beginning of the bioregional planning process when we were asked for opinions on the categories and the determinations, we were very clear that we were not comfortable with the ICUN categories that they were using; that there were Australian standards that more suited our environment and Australia's requirements.⁷

2.5 Similarly, Mr Conway, Recfish Australia, also questioned the utility of the consultation process, commenting that the organisation would 'support any process that may increase the transparency of decision making.' Mr Conway further stated that 'the process should be...open to full scrutiny by all stakeholders'.⁸ Mr Peter Todd, Vice President, Tin Can Bay Chamber of Commerce and Tourism Inc, raised similar concerns with the merits of the existing processes, arguing that Parliamentary disallowance may lead to 'more genuine' consultation and decision-making.⁹

2.6 Submissions also questioned the objectivity of current consultation processes.¹⁰ The concerns are reflected in the statement of the South Australian Marine Parks Management Alliance, which submitted that inappropriate weight is given to the views of environmental groups:

6 Department of Sustainability, Environment, Water, Population and Communities, *Submission 29*, p. 5.

7 Mrs Judy Lynne, Executive Officer, SunFish Queensland, *Proof Committee Hansard*, 13 May 2011, p. 24.

8 Mr Conway, Recfish Australia, *Proof Committee Hansard*, 13 May 2011, pp 22–23.

9 Mr Peter Todd, Vice President, Tin Can Bay Chamber of Commerce and Tourism Inc, *Proof Committee Hansard*, 13 May 2011, p. 29.

10 For example, Australian Underwater Federation – Queensland Spearfishing Commission, *Submission 26*, p. 1; Mr Bayne, Coral Sea Access Alliance, *Proof Committee Hansard*, 13 May 2011, p. 34; South Australian Marine Parks Management Alliance, *Submission 28*, p. 5; Mr Todd, Tin Can Bay Chamber of Commerce and Tourism Inc, *Proof Committee Hansard*, 13 May 2011, p. 28.

...decisions related to the establishment and management of marine parks should not be the responsibility of any single Minister or person but should be subject to broader examination through parliamentary process. It is only in this way will the risk of undue influence by these [environmental groups] be reduced.¹¹

2.7 Concerns were also expressed regarding the extent to which the consultation process is effective in gathering relevant scientific analysis. Representatives from SunFish Queensland and the Australian Fishing Trade Association (AFTA) submitted that the Department's advice to the Minister is based on 10 year old data.¹² AFTA further commented that there is little engagement with stakeholders on the scientific basis of the proposed bioregional plans and Commonwealth marine reserves:

I am just saying that there are voices being heard in the making of bioregional requirements that Australia has signed off on. We know that prior to public release maps have been taken to certain stakeholders for their opinion and so forth on it. We know that has taken place. But behind all of this what has not been made available to recreational fishers and possibly others is any form of briefing on the science used to determine these areas of closures. We have never been presented with science to explain why this is important and why it is not important. None of that has ever taken place up to this point. I think that is a major concern. Where is the science?¹³

2.8 However, these concerns were not supported by all who presented evidence to the committee. A number of submissions argued that the consultation processes are both effective and comprehensive. For example, Mr Chris Smyth, Healthy Oceans Campaigner, Australian Conservation Foundation (ACF), characterised the consultation processes as 'long, complex and inclusive'.¹⁴ The PEW Environment Group commented that the consultation processes are 'extensive'.¹⁵ Similarly, while considering that there is 'room for improvement', Mr Darren Kindleysides, Director, Australian Marine Conservation Society (AMCS) also did not share the concerns with the consultation processes but argued that it is 'adequate and sufficiently robust'.¹⁶

11 South Australian Marine Parks Management Alliance, *Submission 28*, p. 5.

12 Mr Douglas Joyner, Executive Officer, Australian Fishing Trade Association, *Proof Committee Hansard*, 13 May 2011, p. 24; Mrs Lynne, SunFish Queensland, *Proof Committee Hansard*, 13 May 2011, p. 24.

13 Mr Joyner, Australian Fishing Trade Association, *Proof Committee Hansard*, 13 May 2011, p. 26.

14 Mr Chris Smyth, Healthy Oceans Campaigner, Australian Conservation Foundation, *Proof Committee Hansard*, 13 May 2011, p. 39.

15 The PEW Environment Group – Australia, *Submission 22*, p. 1.

16 Mr Darren Kindleysides, Director, Australian Marine Conservation Society, *Proof Committee Hansard*, 13 May 2011, p. 41.

2.9 Mr Stephen Oxley, First Assistant Secretary with the Department, explained to the committee the consultation processes. Whilst acknowledging that 'perhaps...[the Department] clearly could have been a little bit more proactive in terms of the active provision of information', Mr Oxley advised that there is 'a very good amount of information available publicly about the science underpinning what we do'. The committee was informed that the Department's website provides:

...technical analysis of the performance of the network proposal...against the goals and principles for the establishment of the national representative system of marine protected areas in Commonwealth waters. That document itself is extensively referenced and includes tables which have in them the references to the key datasets that the department has used in developing the marine reserve network.

I think we also have on the website a super table that provides again references to all the key datasets that we have used, who owns them, whether or not they are public and where they are publicly available by a web link, the web link is there and where they are publicly available on request it will say: you will need to contact the Fisheries Research and Development Corporation or CSIRO for this information, whoever the data owner is where it is not a publicly accessible database by the click of a button on a web page.¹⁷

2.10 In addition to divergent views regarding the efficacy of the current consultation processes, it was apparent that there was also a lack of consensus about whether Parliamentary disallowance would lead to more transparent and informed decision making. This is evident in the statement by Professor Robert Kearney that:

...having read the documents, I came away rather ambivalent...the level of information that the Senate has before it will largely determine the ability of the Senate to make the right decision.¹⁸

2.11 Mr Joyner, AFTA, also questioned whether Parliamentary disallowance will result in a more transparent process:

We are very concerned so far with the processes of consultation up to this point, and that is probably the main thrust of our submissions to you today. Whether or not a disallowance is a suitable instrument is yet to be seen.¹⁹

2.12 Furthermore, it was put to the committee that the Parliamentary disallowance process may reduce, rather than increase, public input into the formation of bioregional plans and Commonwealth marine reserves. The ACF argued:

17 Mr Stephen Oxley, First Assistant Secretary, Marine Division, Department of Sustainability, Environment, Water, Population and Communities, *Proof Committee Hansard*, 13 May 2011, p. 55.

18 Professor Robert Kearney, Emeritus Professor, University of Canberra, *Proof Committee Hansard*, 13 May 2011, p. 21.

19 Mr Joyner, Australian Fishing Trade Association, *Proof Committee Hansard*, 13 May 2011, p. 22.

The disallowance of such plans also undermines the good faith, input and efforts with which the community has engaged in the planning process, leaves the community with uncertainty about the future management of these areas, and the possibility of having to revisit the process again.

This further risks community consultation fatigue, disenchantment and cynicism with the value of such government processes.²⁰

2.13 The AMCS, the Humane Society International and the PEW Environment Group expressed similar views.²¹ According to the AMCS:

...to introduce the potential for disallowance at the end of [the consultation] process could deter rather than encourage engagement in the formal consultation process. It could undermine public confidence in the process and build uncertainty for stakeholders.²²

2.14 Mr Andrew Macintosh, Associate Director, ANU College of Law, also noted the potential for stakeholder uncertainty:

There might be an understanding generated by that level of public participation that at the end when the government says there is going to be a marine park, there is going to be marine park and the boundaries will be those boundaries set by the government.²³

2.15 Mr Macintosh further advocated that, to minimise stakeholder confusion, the Bill if passed would require consequential amendments to the consultation process. According to Mr Macintosh, 'there might be cause to make it very clear to all parties all the way through the process that this final instrument is subject to disallowance.'²⁴

Concerns with the Bill

2.16 Several concerns were expressed with the proposal for bioregional plans and Proclamations for Commonwealth marine reserves to be subject to Parliamentary disallowance. Concerns included that the disallowance process may compromise Australia's compliance with its environmental management commitments, may have significant, adverse practical and financial implications, and create unnecessary uncertainty for affected businesses and communities. It was also queried whether it was intended to make bioregional plans subject to Parliamentary disallowance.

20 Australian Conservation Foundation, *Submission 30*, p. 1.

21 Australian Marine Conservation Society, *Supplementary Submission 20*, p. 2; Humane Society International, *Supplementary Submission 25*, p. 2; The PEW Environment Group – Australia, *Supplementary Submission 22*, p. 2.

22 Australian Marine Conservation Society, *Supplementary Submission 20*, p. 2.

23 Mr Andrew Macintosh, Associate Director, ANU College of Law, *Proof Committee Hansard*, 13 May 2011, p. 6.

24 Mr Macintosh, ANU College of Law, *Proof Committee Hansard*, 13 May 2011, p. 6.

Australia's environmental commitments

2.17 Concerns were raised with the effect of the disallowance process on Australia's national and international environmental commitments. The ACF submitted that the development of Commonwealth marine reserves fulfils Australia's national and international environmental management responsibilities:

[The Commonwealth government has established Commonwealth marine reserves] to satisfy international obligations and so the Convention on Biological Diversity certainly obligates nation states to develop and establish networks of marine reserves. They have also done it to implement the national representing system in marine protected areas which has been signed on by all state and territory governments and the Commonwealth, and to also bring ocean protections in line with what we have been doing on land for the past century, that is to create national parks to protect wildlife.²⁵

2.18 The committee has previously noted the relevance of Commonwealth marine reserves to Australia's cross-jurisdictional commitment to develop the NRSMPA.²⁶ The Department confirmed the relevance of Commonwealth marine reserves to international environmental management strategies. The Department advised that, through the Johannesburg Plan of Implementation agreed at the 2002 World Summit on Sustainable Development, Australia has committed to:

[d]evelop and facilitate the use of diverse approaches and tools, including the ecosystem approach, the elimination of destructive fishing practices, the establishment of marine protected areas consistent with international law and based on scientific information, including representative networks by 2012 and time/area closures for the protection of nursery grounds and periods, proper coastal land use and watershed planning and the integration of marine and coastal areas management into key sectors.²⁷

2.19 It was put to the committee that, by providing for the disallowance of Commonwealth marine reserves, the proposed amendments to the EPBC Act may compromise Australia's fulfilment of its international commitments. The ACF stated that Bill 'would also delay or undermine our meeting of international obligations under the Convention on Biological Diversity where we are expected to establish a network of marine reserves.'²⁸ The Department shared this concern, commenting that:

[t]he Bill, if passed, in itself would not cause Australia to fail to meet its international commitments and obligations. However, if the Parliament

25 Mr Smyth, Australian Conservation Foundation, *Proof Committee Hansard*, 13 May 2011, p 38.

26 See paragraphs 1.15–1.17.

27 Department of Sustainability, Environment, Water, Population and Communities, answer to question on notice, 13 May 2011 (received 24 May 2011), p. 1.

28 Mr Smyth, Australian Conservation Foundation, *Proof Committee Hansard*, 13 May 2011, p 38.

subsequently was to disallow the proclamation of new Commonwealth marine reserves, it is possible that Australia would not meet the commitments it made at the World Summit on Sustainable Development in 2002.²⁹

Financial implications

2.20 A number of submissions challenged the statement in the Explanatory Memorandum that the Bill would have 'no financial impact'.³⁰ Several estimates were put to the committee regarding the cost of the bioregional planning process, which ranged from \$8 million to \$10 million.³¹ Concerns that extending Parliamentary disallowance to include bioregional plans would significantly increase the cost of marine management are reflected in the statement of the Humane Society International:

The current cost of the program alone is \$8 million a year and it's been at that level since inception in the late 1990s. We believe that the Bill would lead to an increase in the costs of marine bioregional planning process and cause significant delays to improving the protection and management of our ocean life. We therefore disagree with the statement in the explanatory memorandum that there are no financial impacts of the proposed Bill. In contrast, we consider there to be substantial financial impact should a bioregional plan be disallowed.³²

2.21 Similar concerns were expressed regarding the cost of making Proclamations for Commonwealth marine reserves disallowable instruments. The ACF argued:

The bulk of [bioregional planning process] money would be wasted were the marine reserve declarations process disallowed. The government of the day would also need to find additional funds to initiate a new process to identify and select a marine reserve network acceptable to Parliament and to satisfy Australia's international commitment to establish marine reserve networks. This is in contrast to Senator Colbeck's statement in his explanatory memorandum to the Bill that disallowance would have no financial cost.³³

2.22 Similarly, the PEW Environment Group commented:

29 Department of Sustainability, Environment, Water, Population and Communities, answer to question on notice, 13 May 2011 (received 24 May 2011), p. 1.

30 Environment Protection and Biodiversity Conservation Amendment (Bioregional Plans) Bill 2011, Explanatory Memorandum, p. 1.

31 Australian Marine Conservation Society, *Submission 20*, pp 1–2; Australian Conservation Foundation, *Supplementary Submission 30*, p. 2; Humane Society International, *Submission 15*, p. 2; The PEW Environmental Group, *Submission 22*, p. 1.

32 Humane Society International, *Submission 15*, p.2.

33 Australian Conservation Foundation, *Supplementary Submission 30*, p. 2.

...there will be a cost to the public purse. This arises from the need to restart the process with a revised marine reserve proposal and a further round of public consultation before a new marine reserve can be declared.³⁴

2.23 Mr Macintosh also noted the potential financial impact of the proposed measures, stating that the consultation process may require review 'to make sure that we do not waste a lot of money on consultation that actually ends up being obsolete because it is subject to disallowance.'³⁵

Uncertainty for affected businesses and communities

2.24 It was also submitted that disallowance of Commonwealth marine reserves would have significant ramifications for members of affected communities, stakeholders and the Australian Government. The Department advised that compensation is generally provided to businesses whose operation is affected by the establishment of Commonwealth marine reserves.³⁶ The compensation is generally provided in advance, to ensure that the marine reserves come into effect on the intended date. The committee was informed that a subsequent disallowance of a Commonwealth marine reserve would have significant financial ramifications for affected businesses and cause procedural concerns for the government:

It would be a very difficult situation indeed if the government had gone ahead and invested significantly in industry structural adjustment and then found itself in a situation where money had been paid on the basis of the declaration of a marine reserve only to have that declaration not take effect. I think the government or the department then would be having some quite serious and hard thinking to do about how we would deal with the circumstances of those individuals. It would be a very messy scenario.³⁷

2.25 The Department further advised that the Bill, if passed, would delay the provision of compensation, for 'any structural adjustment assistance could only be reasonably delivered after the Parliament had had the opportunity to disallow the Proclamation.'³⁸ The Department also commented that disallowance would cause ongoing uncertainty for affected businesses and other stakeholders:

It is also possible that the disallowance of a Commonwealth reserve proclamation could lead to ongoing uncertainty for potentially affected businesses if the government intended to revisit the proclamation following

34 The PEW Environmental Group, *Supplementary Submission 22*, p. 2.

35 Mr Macintosh, ANU College of Law, *Proof Committee Hansard*, 13 May 2011, p. 9.

36 Mr Stephen Oxley, Department of Sustainability, Environment, Water, Population and Communities, *Proof Committee Hansard*, 13 May 2011, p. 52.

37 Mr Stephen Oxley, Department of Sustainability, Environment, Water, Population and Communities, *Proof Committee Hansard*, 13 May 2011, p. 52.

38 Department of Sustainability, Environment, Water, Population and Communities, answer to question on notice, 13 May 2011 (received 24 May 2011), p. 2.

expiry of the six-month period during which a legislative instrument could not be resubmitted to the Parliament following its disallowance.³⁹

2.26 The committee also notes the possible maximum duration of the Parliamentary disallowance period (of up to approximately six months) during which the fate of the bioregional plan or the marine reserve would remain uncertain.⁴⁰

Inclusion of bioregional plans in the disallowance process

2.27 It was also questioned whether, given the amendment to the Bill to include the process of establishing Commonwealth marine reserves, it was actually intended to make bioregional plans subject to Parliamentary disallowance.⁴¹ It was put to the committee that the disallowance process should not apply to bioregional plans, given the plans' nature and purpose.⁴² This view is reflected in the statement by the Humane Society International that amending the EPBC Act to make bioregional plans disallowable 'appears to be an inappropriate tool for little purpose'.⁴³ Mr Smyth, ACF, also queried the value of Parliamentary disallowance for bioregional plans:

Bioregional plans are information documents. Their purpose is to assist the minister with decision making under the Act. It does not make any sense for parliament to disallow an information document that assists the minister to make informed decisions.⁴⁴

2.28 The Department also commented on the effect of making bioregional plans disallowable non-legislative instruments:

As to the implications of disallowing a bioregional plan...there is no immediate effect of such a declaration because really what we are seeking to do through the bioregional plans is to provide information to support better informed and better decision making under the EPBC Act, but the reality is that if a bioregional plan was disallowed the minister would still be, within the bounds of the Act itself, well able to take account of the

39 Department of Sustainability, Environment, Water, Population and Communities, answer to question on notice, 13 May 2011 (received 24 May 2011), p. 2.

40 See paragraphs 1.13 and 1.25.

41 For example, Australian Conservation Foundation, *Supplementary Submission 30*, p. 1; Australian Marine Conservation Society, *Supplementary Submission 20*, p. 1; The PEW Environmental Group, *Supplementary Submission 22*, p. 1.

42 For example, Australian Conservation Foundation, *Supplementary Submission 30*, p. 1; Australian Marine Conservation Society, *Supplementary Submission 20*, p. 1; Humane Society International, *Supplementary Submission*, pp 1–2; The PEW Environmental Group, *Supplementary Submission 22*, p. 1.

43 Humane Society International, *Supplementary Submission 15*, pp 1–2.

44 Mr Smyth, Australian Conservation Foundation, *Proof Committee Hansard*, 13 May 2011, p 40.

information that is being presented in the bioregional plan so long as doing so is consistent with his obligations under the Act.⁴⁵

2.29 However, the Department highlighted the implications of the proposal for the efficient administration of the Act and for persons seeking to use areas of land or sea covered by a bioregional plan:

...section 37A gives the minister the ability to make a declaration that an action that is being taken consistent with the provisions of a bioregional plan does not need to be referred and assessed under the EPBC Act. In the making of a declaration such as that, which would be a disallowable instrument, there is the opportunity to streamline and make more efficient the operation of the EPBC Act. The disallowance of a bioregional plan would be the loss of an opportunity to make a declaration that improved the overall administration of the Act.⁴⁶

Committee view

2.30 The committee notes the concerns with the consultation process for bioregional plans and Commonwealth marine reserves. However, evidence presented to the committee regarding the effectiveness of existing consultation processes is inconclusive.

2.31 While drawing the Minister's attention to the concerns with the consultation process, the committee notes that it has not been demonstrated that there are concerns that must be addressed to strengthen the consultation processes. Nor has it been established that any such concerns could be effectively addressed through Parliamentary disallowance.

2.32 On the contrary, evidence to the committee highlights the potential hazards of introducing Parliamentary disallowance to the process of establishing bioregional plans and Commonwealth marine reserves. The committee is particularly concerned with the potential financial hardship and uncertainty that the disallowance process may cause affected businesses, communities and other stakeholders. The committee is also concerned with the potential impact of the disallowance process on Australia's fulfilment of its international environmental management obligations. The committee considers that the Bill, if passed, would not contribute to a more effective and efficient environmental management process. For these reasons, the committee recommends that the Bill not be passed.

45 Mr Stephen Oxley, Department of Sustainability, Environment, Water, Population and Communities, *Proof Committee Hansard*, 13 May 2011, p. 57.

46 Mr Stephen Oxley, Department of Sustainability, Environment, Water, Population and Communities, *Proof Committee Hansard*, 13 May 2011, pp 56–57.

Recommendation 1

2.33 The committee recommends that the Senate not pass the Environment Protection and Biodiversity Conservation Amendment (Bioregional Plans) Bill 2011.

Chapter 3

Matters outside the scope of the Bill

3.1 In addition to issues relating to the proposed amendments to the EPBC Act, the committee received evidence on matters outside the scope of the Bill. In particular, the committee's attention was repeatedly drawn to debate regarding whether bioregional plans and Commonwealth marine reserves are effective environmental management strategies.

3.2 Several submitters questioned the merit of Commonwealth marine reserves and bioregional plans.¹ Mr Bayne of the Coral Sea Access Alliance, argued that '[i]t is not appropriate to continually rely on little else but exclusion and fisheries restrictions as the panaceas for almost every marine environment problem.'² Similarly, Mr Jones, Marine Queensland, questioned whether the existing environmental management strategies are fundamentally flawed, commenting that 'one of the key failures of this processes...is that there seems to be this obsession with whether a fish can be caught or not caught'. Mr Jones submitted that this was 'actually misguided' as '[t]he impact on healthy waterways tends to be about land based activities and the impact of activities such as...coal ships, cargo ships and oil spills'.³ Dr Diggles shared these concerns, stating:

The area management is impotent, because the water moves across the lines and the actual ecosystem processes are what is driving the ecology of the area, the decline of the area and the reduction of biodiversity in the area. It is understanding the fact that we have these processes involved that cannot be managed by the line on the map.⁴

3.3 Similarly, Professor Kearney argued:

Area management, in the form of marine closures, cannot provide appropriate protection against the major threats to our ecosystems, in particular pollution in its many forms, introduced and translocated species; organisms such as marine pests or diseases, and pervasive threats such as ocean acidification.⁵

1 For example, Mr Bayne, Coral Sea Access Alliance, *Proof Committee Hansard*, 13 May 2011, p. 31; Dr Ben Diggles, Private capacity, *Proof Committee Hansard*, 13 May 2011, pp 11–16; Mr Jones, Marine Queensland, *Proof Committee Hansard*, p. 33; Professor Kearney, University of Canberra, *Proof Committee Hansard*, 13 May 2011, pp 17–20.

2 Mr Bayne, Coral Sea Access Alliance, *Proof Committee Hansard*, 13 May 2011, p. 31.

3 Mr Jones, Marine Queensland, *Proof Committee Hansard*, p. 33

4 Dr Diggles, Private capacity, *Proof Committee Hansard*, 13 May 2011, p. 14.

5 Professor Kearney, University of Canberra, *Proof Committee Hansard*, 13 May 2011, p. 17.

3.4 Several submissions advocated for an alternative approach to marine management. Dr Diggles argued for 'risk analysis or risk management'.⁶ Dr Diggles commented that 'the actual risk associated with that ecosystem may be originating from outside the lines on the map and, therefore, it is more of a holistic ecosystem approach.'⁷ Marine Queensland also supported a risk-based approach, recommending that '[m]arine protection measures, where deemed necessary, will address objective threats to marine environments'.⁸ This view was shared by Professor Kearney, who submitted that:

If you are going to manage any environment or any issue you first look at the threats and you then look at the ways in which they might be managed. You assess what is appropriate for each area and what outcomes you want, and then you implement the system that is most appropriate for that process and for that area.⁹

3.5 Conversely, it was put to the committee that the creation of bioregional plans and Commonwealth marine reserves is an appropriate response to the risks facing Australia's marine environment. Mr Kindleysides, AMCS, stated that '[m]arine reserves are internationally recognised as a proven tool for conserving marine biodiversity'.¹⁰ Mr Kindleysides further argued that the plans and reserves are part of a suite of measures to address environmental concerns:

It is very fair to say that they are not intended to be an alternative to or a substitute for good management of a marine environment. They are not intended to be an alternative to good fisheries management. They are complementary to and need to be complemented by measures to tackle things like pollution...Marine conservation is a tool box and one, if not the most proven, tool is marine protected areas, but certainly it is not the only tool and in fact there is a whole range of measures that need to be introduced¹¹

3.6 This view was shared by the Department, which provided extensive comments in response to concerns with the use of bioregional plans and Commonwealth marine reserves. Mr Stephen Oxley, First Assistant Secretary with the Department explained to the committee that opponents of marine reserves are missing a key point: Australia's international obligation to establish the National Representative System of Marine Protected Areas:

6 Dr Diggles, Private capacity, *Proof Committee Hansard*, 13 May 2011, p. 11.

7 Dr Diggles, Private capacity, *Proof Committee Hansard*, 13 May 2011, p. 12

8 Marine Queensland, *Submission 10*, p. 9.

9 Professor Kearney, University of Canberra, *Proof Committee Hansard*, 13 May 2011, p. 19.

10 Mr Kindleysides, Australian Marine Conservation Society, *Proof Committee Hansard*, 13 May 2011, p. 45.

11 Mr Kindleysides, Australian Marine Conservation Society, *Proof Committee Hansard*, 13 May 2011, p. 45.

There is a lot of evidence [before the committee] questioning the policy rationale for creating marine reserves to the effect that their existence and zoning should be justified on the basis of demonstrated threats and the capacity of marine protected areas to mitigate those threats...That line of argument misses a key policy foundation of the present reserve network identification process; that is, that what we are seeking to achieve is to develop a national representative system of marine protected areas that includes within it examples of the full range of ecosystems found within Australia's waters. That system is known as it is growing as the National Representative System of Marine Protected Areas...[T]he goals and principles for the establishment of the National Representative System of Marine Protected Areas in Commonwealth waters...make some reference to threats or risks in the sense that the capacity of an MPA to mitigate identified risks to conservation values is a valid consideration when choosing where to locate the representative system...At its core we are building a representative system which is all about making sure that in perpetuity we have examples functioning effectively of all the different ecosystems that are present in the Commonwealth marine area, and the goals and principles are designed to deliver that. The essential policy rationale is that in doing that as one tool in the overall set of tools for managing man's presence in the marine environment, they can make a significant contribution to supporting the health and resilience of the marine environment.¹²

Committee view

3.7 The committee notes the divergent views regarding environmental management policies and approaches. However, the inquiry did not afford the opportunity to thoroughly investigate the effectiveness of marine national parks and their contribution to the National Representative System of Marine Protected Areas, as these matters were outside the scope of the Bill. Accordingly, the committee makes no comment in this regard.

Senator Doug Cameron Chair

12 Mr Stephen Oxley, First Assistant Secretary, Marine Division, Department of Sustainability, Environment, Water, Population and Communities, *Proof Committee Hansard*, 13 May 2011, p. 55.

Coalition Senators' Dissenting Report

The Coalition supports a balanced approach to marine conservation.

Marine Protected Areas are intended to protect and maintain biologically and culturally significant marine areas. The previous Coalition Government commenced the process of establishing comprehensive Marine Bioregional Plans, which include determination of Marine Protected Areas around Australia's coastline.

In 2006, the former Coalition Government announced the establishment of eleven Marine Protected Areas, as part of development of the South-East zone, first Commonwealth Bioregional Plan. These eleven Marine Protected Areas were only created after careful consideration and consultation with the recreational and commercial fishing sectors, environmental non-government organisations (ENGOS) and other stakeholders.

The former Coalition Government engaged in an extensive and cooperative consultation process before any Marine Protected Areas were declared. This consultation ensured an appropriate balance was struck between protecting marine biodiversity and minimising social and economic impact on fishers, businesses and coastal communities, and better outcomes. The final result was a greater area protected with less impact on industry.

The Rudd and Gillard Labor Government has continued the Coalition's program, but have failed to continue with appropriate consultation with the fishing industry and the wider community. The successive Labor Governments are not adopting a balanced approach and instead appear to preference the views and desires of ENGOS at the expense of the fishing sectors.

Many communities that rely on fishing are directly threatened by the Government's inability to adequately consult on whether a region should be declared a Marine Protected Area.

Unsurprisingly, recreational and commercial fishers, as well as the many related businesses and communities that rely on fishing, have raised substantial concerns about the Government's handling of Marine Protected Areas.

Appropriate and effective consultation is needed if Marine Protected Areas are to balance environmental concerns with the need to support industries, protect jobs and sustain the communities that rely on commercial and recreational fishing.

Many communities will face enormous economic and social losses unless there is proper and effective consultation on potential Marine Protected Areas. Only proper

and effective consultation will ensure future Marine Protected Areas balance preservation of the environment with economic growth and strong coastal communities.

The Coalition is committed to returning balance and fairness to marine conservation.

It is with this in mind that the Coalition proposed the Environment Protection and Biodiversity Conservation Amendment (Bioregional Plans) Bill 2011.

The original Bill sought to make bioregional plans disallowable instruments, under the provisions in the *Acts Interpretation Act 1901* and the *Legislative Instruments Act 2003*. A subsequent amendment to be moved by Senator Colbeck and provided to the Committee prior to the Senate hearings so that it could be fully considered as a part of the inquiry process clarified the intention to make Marine Protected Zones disallowable instruments. The purpose of this amendment was not to change the intent of the legislation but to ensure that it met the objectives as set out in the Second Reading Speech and the Explanatory Memorandum.

Under the current provisions for bioregional plans with the Environment Protection and Biodiversity Conservation Act, a bioregional plan as prepared under subsection 176(1) or (2) is not a legislative instrument.

As such, the Environment Minister currently has sole power to approve the adoption of bioregional plans. The Coalition believes this amendment should be made to provide far greater parliamentary sovereignty and allow both houses the right to debate the merits of any new Marine Protected Areas.

The risks associated with this principle of unlimited power were clearly articulated by Harry Evans, former Clerk of the Senate in his paper *Constitutionalism, Bicameralism and the Control of Power*, (2008).

The real realists, however, are those who know that their pockets will not remain unpicked and their rights untrampled if their chosen representatives are given a free rein between elections indefinitely. Such people are properly sceptical of the claim that “strong government” equals economic growth. They will appreciate the difficulty of judging a government if it controls the information they receive. They will therefore welcome the timely installation of safeguards to curb malfeasance at an early stage. Australia is now undersupplied with safeguards, and oversupplied with public scandals, not counting the misdeeds we do not get to hear about. We should preserve the safeguards that exist and think very carefully about new ones.

The current lack of review available to the final declaration of Bioregional Plans is a clear example of the vesting of power within narrow confines, resting solely with the

Minister and therefore provides the opportunity for abuse of power. Declarations of Bioregional Plans and Marine Protected Areas have significant environmental and socio-economic consequences. It is therefore inappropriate for these declarations to be made without the opportunity for parliamentary review, a further “safeguard” is required. By making the declaration of Bioregional Plans and Marine Protected Areas disallowable instruments, these significant decisions will be subject to that scrutiny and a further safeguard established.

Further, Dr Coghill, appearing in a private capacity, supported the Bill. Reflecting on his seventeen years in the Victorian parliament, including four years as speaker, Dr Coghill stated:

Inquiry Hansard, Friday, 13 May 2011, p 1

Dr Coghill – My clear perspective is that it is absolutely important to effective parliamentary democracy that the parliament have the opportunity to scrutinise and, if appropriate, disallow any action taken by the executive. It follows from that that I support the effect of the legislation as it seems to me that it would enable the parliament to scrutinise particular decisions by the relevant minister and, if after examination they felt so moved, to disallow such an instrument. My position is on that primary issue of accountability of the executive to the parliament.

Overwhelming support for parliamentary review of the marine bioregional planning process was evident in submissions to the Committee, such as the following from the Abalone Industry Association of South Australia:

Inquiry submission number 14

It is a real slap in the face to the good work done by our Government Fisheries Managers and Industry. We are very uncomfortable with the fact that the final decision of adopting the bioregional plans rests with the Minister for Environment only. We would prefer to have a far more rigorous and robust process through the parliament that doesn't have the potential to be clouded by extreme green views.

And from Queensland Seafood Industry Association:

Inquiry submission number 18

Without this amendment the department and the Minister have unfettered power without recourse.

QSIA would also argue the proposed amendment bill allows for a further level of protection by the Parliament that ensures single issue interest groups are unable to remove the rights of others without due process.

Ineffective consultation

The Government argues that sufficient stakeholder consultation has been undertaken with regard to the bioregional planning. However, submissions made to this Inquiry are testament to the high dissatisfaction amongst sectors of the industry. While the proposed Bill, and this Inquiry, deal with a technical legislative aspect of the Environment Protection and Biodiversity Conservation (EPBC) Act, the majority of submissions to this Inquiry highlighted flaws with the Government's progressing the Bioregional Plans network and Marine Protected Areas within the Bioregional Plans.

The importance of effective consultation cannot be overstated. Ultimately the success of initiatives relies heavily on their acceptance by key stakeholders.

Inquiry Hansard, Friday, 13 May 2011, p 3

Dr Coghill – That is really what I meant in my earlier comment. Where there is highly interactive consultation with and between the stakeholders you are more likely to end up with a satisfactory regulatory regime – if I can put it in that terminology – than if it is left to a later stage and is simply left to be resolved at the political level. My point is that, if there is full and frank and proper consultation and exchange between stakeholders, it is much more likely that there will be an effective regime to protect the marine resource, and that is really what has been demonstrated by Ostrim in her work which has led to her Nobel Prize.

There are many voices in the discussion and debate related to the establishment of Bioregional Plans and Marine Protected Areas. The Government should be concerned that a significant number of these stakeholders do not feel their concerns have been heard or considered. The ability to further review the declaration of Bioregional Plans, and Marine Protected Areas, by making them disallowable instruments would provide opportunity for the Australian Parliament to consider the concerns of their constituents, and to take action when required.

The following witnesses and submission extracts validate the Coalition's concerns in this area:

Mrs Judy Lynne, Executive Officer, SunFish Queensland agreed with Senator Colbeck's summation of her concerns as being

Inquiry Hansard, Friday, 13 May 2011, pp 24-25

Senator Colbeck – To summarise your position that you have given, both in your introductory comments and also here, you do not believe that your voice has actually been reflected in the process thus far. Therefore, with the capacity for the parliament to have a final consideration you believe there is an opportunity for your voice to be heard as part of that process.

Mrs Lynne – Yes

Mr Conway, Chair of RecFish Australia, stated:

Inquiry Hansard, Friday, 13 May 2011, pp 22-23

Mr Conway – ...RecFish supports the sustainable use of marine resources and we believe that decisions should be based on the principle of shared management and shared use of resources and not the denial of access to specific stakeholders. We support any process that may increase the transparency of decision making in relation to the current marine bioregional planning process. We have noted that there are some suggestions from a number of quarters that the level of consultation and transparency of the process in the past has been less than what was possible expected by the stakeholder groups. We also understand that the same stakeholders have initiated that the precautionary principle may have been applied inefficiently. (The underlying assumption from recreational fishers is that decisions should be based on sustainable, well managed conservation actions with input from all stakeholders, rather than the lock-out mentality of some groups.)... We believe that the bioregional planning process can only benefit from a rigorous examination and review and that the process should be as thorough and open to full scrutiny by all stakeholders. We see no reason why our elected representatives should not be part of that review process...the Hawke review suggested that there was a need to improve transparency in decision making...

Submission 2 from Kathryn Williams, identifying herself as “an irate Australian Citizen”:

“The Government seems to rush into these types of proposals and not take into account what the layman says. You say you listen to us at these Marine Park meetings but I think you are only there to show your presence and that you have already made the decision to go ahead.”

Submission 3 from Greg Haines, Managing Director, The Haines Group:

“The apparent political power of these minority groups, combined the perceived shallow public consultation conducted on Marine Parks zoning has left an indelible impression in the minds of many that Democracy is dead. At least in the matter of Marine Zoning. If this all sounds far-fetched you need look no further than the submissions to the 2005 Review of the Great Barrier Reef Marine Park Act.”

Submission 8 from Mr Cameron Talbot:

“I’m concerned that \ lobby groups like PEW WWF and AMCS seem to get access to Ministers and control of what happens. The Department does not consult us or simply ignores what we have to say. I feel that democracy has been lost and further more my faith in the Labour party has gone with it. I along with all labour supporters that I know who also fish, are so disenfranchised with this government that at the next election we will do what I never thought we would and vote LNP. This is the last chance I will give labour, if this falls thru so does my vote- for good. Fishermen (and there are a lot of us) will not forget this if it is swept under the carpet.”

Submission 7 from Mr Scott Thompson, Recreational Fisherman:

“Also of note is the Government’s lack of public consultation in regards to Marine Parks. The relevant information is often skewed towards a biased opinion and any scientific studies, data and evidence are either non-existent or hidden from public viewing until the Minister has given their approval of the plan. Consultation is often held and the public is given a chance to speak, however, never, not once has anything the public majority been given any consideration in regards to Marine Parks. I urge this Senate Committee to form an investigation and review into the current consultation practices of the Government and to oversee new, fairer consultation processes whereby the public are given adequate notice and information, this would include making any and all relevant scientific studies public and available for viewing and evaluation.”

Submission 3 from Superyacht Australia:

“Biodiversity conservation, in the context of ecologically sustainable development, is the central objective of the EPBC Act and this approach underlined the Government’s strong commitment to ensuring the long-term sustainability of the Australian marine environment, as envisaged in Australia’s Oceans Policy (1998).

The Government at the time clearly stated that the approach would give marine industries clearer guidance, and help to streamline the operation of approval processes under the EPBC Act, improving the information available to Government on which to base its decisions.

While there were substantial achievements through regional marine planning with the release of the world's first regional marine plan in the South-east Marine Region, the Rudd Government decided that a deviation away from that process with a much increased emphasis on marine conservation. This change in emphasis also resulted in a different approach to industry engagement which has resulted in a significant loss in confidence by industry to the process and its commitment to the outcomes of the current process.”

People do not feel their concerns have been heard, they feel isolated and ignored, clear hall marks of ineffective consultation.

Perhaps even more concerning are the issues raised by the Australian Fishing Trade Association regarding access to information:

Inquiry submission number 31

“To date no briefing regarding the science being used with Bio Regional Planning has been transparently tabled to stake holders. Thus no comment from stake holders has been achieved.

This vacuum of information has not been helpful in any understanding of current process, future process or past process. However we are aware a draft map has been produced. Why in the name of transparency during a planning process that a scientific briefing not be available to Stakeholders, Government? Would it not encourage informed debate?”

Concerns regarding potential to achieve conservation aims

Significant doubts were raised regarding the ability of the Marine Protected Areas identified within the Marine Bioregional Plans to achieve conservation aims. Much of the criticism relates to the focus of researching what currently exists and not applying sufficient rigour to the question of how best to protect and preserve the marine biodiversity. Concerns were also raised with relation to whether adequate risk assessments had been undertaken, particularly considering the transient but potentially devastating impacts of isolated incidents such as pollution from marine vessels such as the oil spill from the *Pacific Adventurer*.

Marine biologist, Dr Diggles raised concerns regarding the apparent lack of applying a risk based approach to the declaration of marine national parks and Marine Protected Areas. Dr Diggles has considerable experience in the application of a scientifically based risk analysis to issues of marine biosecurity and environmental health. He has first-hand experience assessing the scientific basis of the declaration of the Coral Sea Conservation Zone and in his own words, “I work on the actual mechanisms that influence the resilience and the biodiversity within these aquatic systems. I work on the actual nuts and bolts that hold the systems together.”

Inquiry Hansard, Friday, 13 May 2011, p 11

Dr Diggles -it is apparent to me that there is actually a disconnect between the reality of the biological processes that are threatening the biodiversity and fish stocks in these areas in my local marine park; there is a disconnect between that and the area management tools that many laypeople, politicians and even some scientists seem to think can solve all the problems.

Inquiry Hansard, Friday, 13 May 2011, p 12

Dr Diggles – Area management is managing people’s activities within an area, but it is not risk management. These biological processes do not particularly care about where the line is put on the water. They work on processes related to things like water quality, nutrient input and all of these other aspects. A lot of the insults to the system, for want of a better word, actually originate from outside the lines on the map. It is very important to realise with this process that we are seeing some people quite happy to put lines on a map and to state that this ecosystem is now protected. They use that word in a way that is very misleading, because the actual risk associated with that ecosystem may be originating from outside the lines on the map and, therefore, it is more of a holistic ecosystem approach.

Inquiry Hansard, Friday, 13 May 2011, p 11

Dr Diggles – The reality is I think marine parks are being massively oversold in Australia at the moment. It is my aim today to give the committee and the federal government a clearer view of what the parks can and cannot do for biodiversity, fisheries and health of the marine environment, and to explain why I think the actual process needs a few more checks and balances to make sure it is done right.

Responding to a question from Senator Siewert regarding the scientific data and other inputs used by the government to make the zoning recommendations, Dr Diggles acknowledged there was “a lot of very good information” gathered over a number of years, but also identified a lack of a risk based approach to the management of fisheries.

On further questioning from Senator Colbeck, Dr Diggles explained the origins of the claim by The Ecology Centre that, according to submission 27 “50% of the oceans in the south west of the country will need to be protected in a network of marine sanctuaries to minimise risks to marine life, fish stocks and ecosystems”.

Inquiry Hansard, Friday, 13 May 2011, pp 15-16

Dr Diggles – You had to be fairly bloody minded to go in there and see how they arrived at those figures, but essentially it was a 30 per cent minimum

arrangement and added another 20 per cent on top of that for protection of threatened species.

In short, the output of the analysis was in fact dictated by the arbitrary targets inputted by the modellers.

Professor Kearney, Emeritus Professor of Fisheries, University of Canberra cast further doubt over the process of establishing Marine Protected Areas, stating in his submission to the Committee:

Inquiry submission number 24

“The wisdom of using area management in marine environments remains largely unquestioned today. Rather its use continues to be based on the unjustified transposition of terrestrial paradigms of national parks into marine environments that are highly interconnected and mostly volatile or even mobile. Marine environments are such that artificial boundaries are largely irrelevant to the ecological processes within them and therefore also often irrelevant to their proper conservation or management. The failure to adequately assess the contribution of area management to the conservation requirements for hugely different marine environments, ranging from high energy ocean beaches to relatively more static deepwater seamounts, further exposes the inadequacies of the process.”

Professor Kearney highlights three fundamental steps to be taken in order for an area to be adequately and appropriately protected:

- all significant threats must be identified (Article 7 of the Convention on Biological Diversity)
- the processes that constitute these threats must be addressed (EPBC Act, Commonwealth of Australia 1999) and,
- the management action that is taken must “not be disproportionate to the significance of the environmental problems” (Intergovernmental Agreement on the Environment, Government of Australia 1992)

Regrettably Professor Kearney also states that these simple steps have not been systematically applied to the declaration of most Australia’s Marine Protected Areas.

The assumption of the Australian government that closing areas to all types of fishing represents total or at least high levels of protection is challenged by Professor Kearney. In fact, it appears that the link between fishing and depletion of fishing stocks is not always as clear cut as some would lead us to believe.

Recent research, funded by the federal government, has raised doubts as to the effectiveness of the proposal to expand marine parks in Western Australia.

“The commonwealth-funded joint study by the WA Department of Fisheries and Murdoch University found fishing activity was not having a major impact on fish stocks in the state's four marine bio-regions.” Sydney Morning Herald, 2 June 2011.

Dr Dan Gaughan from the Department of Fisheries was reported as saying that the Department's recent management of fisheries initiatives have had positive impact on the state's fishing stocks and WA Fisheries Minister Norman Moore is reported to have said that the recent report “raised questions about the effectiveness of the government's proposed marine parks.” Minister Norman has called on Federal Environment Minister Tony Burke to present scientific evidence backing the recently released draft marine parks plan for the southwest of Western Australia.

Other evidence provided to the inquiry supported the potential for sound fisheries management to have positive impacts on fish stocks.

Inquiry Hansard, Friday, 13 May 2011, p 17

Professor Kearney – Since the 1990s in Australia we have greatly improved our fisheries management. The EPBC Act has played a major role in that and is pivotal to the discussion. In fact, if you look at changes in the last five years, from 2005 to 2009, the number of fisheries assessed by the Commonwealth government to be well managed or underfished has increased from 15 to 56 – an impressive figure – while the number overfished has gone down from 25 to 15.

The submissions and evidence presented to the inquiry highlights assumptions have been made regarding the establishment of Marine Protected Areas and exclusion of fishing as effective mechanisms for conservation of marine biodiversity. A simple solution has been imposed on a fundamentally complex and dynamic situation. Questions have been raised regarding the apparent rating of fishing activities as of high significance while other issues such pollution, sediment run-off, climate change, coral bleaching, sea temperature increases, ocean acidification, translocation of species, introduction of diseases and a whole range of human activities such as boating, tourism, diving, walking or anchoring on coral appear to be underplayed and are unlikely to respond to the marine planning initiatives.

Threat to seafood security

Seafood is an important component of the Australian diet, and despite our huge coastline relative to our population we are now a net importer of fisheries products.

The submission from the Australian Marine Engine Council, submission 17 states: “...in 2007–2008 Australia became a net importer of fisheries products, both in terms of volume and in terms of value.”

Professor Kearney also raised concerns related to imports:

Inquiry Hansard, Friday, 13 May 2011, p 19

Professor Kearney – We import 70 per cent of what we have. Australia has no policy for seafood security – none.

Inquiry Hansard, Friday, 13 May 2011, p 20

Professor Kearney – Do not lock off big areas, particularly not the Coral Sea. For example, the Coral Sea that is being proposed, is Australia's only access to the world's biggest fishery. It is a two million tonne fishery. Australia's total fish catch is 200,000 tonnes.

Not only should Australia be focussing on national food security and the importance of fish as a healthy protein source, we should not outsource our food requirements to developing nations and indirectly contribute to the depletion of fish stocks in areas with less sophisticated fisheries management practices.

Conclusion

The magnitude of the Marine Bioregional network, being almost equivalent to the entire land mass of Australia combined with the need to effectively balance conservation and biodiversity outcomes with the financial and social impacts associated with the modification to fishing activities strongly support the case for such decisions to be made with the safeguard of an additional review of the Parliament.

An amendment to the Environment Protection and Biodiversity Conservation Amendment (Bioregional Plans) Bill 2011 can provide this, thereby protecting all stakeholders and the general public against the potential for the executive to make politically distorted decisions.

Senator the Hon. Richard Colbeck

Senator the Hon. Ron Boswell

Senator Mary Jo Fisher

Appendix 1

Senator Colbeck's proposed amendment to the Bioregional Plans bill



Senator the Hon. Richard Colbeck
Senator for Tasmania

RC/dc

April 18, 2011

Senator Doug Cameron
PO Box 322
SPRINGWOOD NSW 2777

cc: Committee Secretary
Senate Standing Committee on Environment and Communications

Dear Senator Cameron, *Doug,*

I am writing to you in your position as Chair of the Senate Standing Committee on Environment and Communications.

I am supplying to you a copy of an amendment to my Private Senator's Bill, *Environment Protection and Biodiversity Conservation Amendment (Bioregional Plans) Bill 2011*.

The amendment has been lodged with the Senate Table Office.

The purpose of the amendment is not to change the intent of the legislation but to ensure that it meets the objectives as set out in the Second Reading Speech and the Explanatory Memorandum.

For that reason there is no further information provided with the amendment

As the Senate Environment and Communications Committee is currently undertaking a Inquiry into my bill, I would request that this amendment be circulated to Committee members and be given appropriate considering by the Inquiry.

I would welcome the opportunity to speak with Committee members about this amendment and its consequences should that be required.

Yours sincerely

Richard Colbeck

2010-2011

The Parliament of the
Commonwealth of Australia

THE SENATE

Environment Protection and Biodiversity Conservation Amendment (Bioregional Plans) Bill 2011

(Amendments to be moved by Senator Colbeck on behalf of the Opposition in committee of the whole)

- (1) Title, page 1 (line 3), after “plans”, insert “and Commonwealth reserves”.
[consequential – disallowance of proclamations of certain Commonwealth reserves]
- (2) Clause 1, page 1 (line 8), after “plans”, insert “and Commonwealth Reserves”.
[consequential – disallowance of proclamations of certain Commonwealth reserves]
- (3) Schedule 1, page 3 (after line 9), at the end of the Schedule, add:

2 At the end of section 344

Add:

Disallowance of Proclamations of certain Commonwealth reserves

- (4) Despite anything in section 44 of the *Legislative Instruments Act 2003*, section 42 (disallowance) of that Act applies to a Proclamation under subparagraph (1)(b)(i) or paragraph (1)(c) of this section of an area of sea or an area of land and sea as a Commonwealth reserve.

[disallowance of proclamations of certain Commonwealth reserves]

Appendix 2

Submissions, tabled documents, additional information and answers to questions taken on notice

Submissions

- 1** Cairns Professional Game Fishing Association
- 2** Mrs Kathryn Williams
- 3** The Haines Group
- 4** Mr Chris Ryan
- 5** Mr John McConkey
- 6** Mr Jeff Wait
- 7** Mr Scott Thompson
- 8** Mr Cameron Talbot
- 9** Tin Can Bay Chamber of Commerce and Tourism Inc
- 10** Marine Queensland
- 11** Mr David Hall
- 12** Sunfish Queensland Inc
- 13** Superyacht (SYBA) Australia
- 14** Abalone Industry Association of South Australia
- 15** Humane Society International
- 16** National Seafood Industry Alliance
- 17** Australian Marine Engine Council
- 18** Queensland Seafood Industry Association
- 19** Recfish Australia
- 20** Australian Marine Conservation Society
- 21** The Wilderness Society Inc
- 22** Pew Environment Group
- 23** Coral Sea Access Alliance
- 24** Professor Robert Kearney
- 25** Mr John Cardno
- 26** Australian Underwater Federation – Queensland, Spearfishing Commission
- 27** Dr Ben Diggles, DigsFish Services Pty Ltd

- 28 South Australian Marine Parks Management Alliance
- 29 Sustainability, Environment, Water, Population and Communities
- 30 Australian Conservation Foundation
- 31 Australian Fishing Trade Association Inc.

Tabled documents

Paper: WorldFish Centre, *Lessons learned and good practices in the management of coral reef marine Protected Areas*, tabled by Dr Ben Diggles (public hearing, Canberra, 13 May 2011)

Table: *The Coalition's Marine Reserve Legacy*, tabled by the Pew Environment Group (public hearing, Canberra, 13 May 2011)

Additional information

Department of Sustainability, Environment, Water, Population and Communities – Copy of report done for the department by Recfish Australia

Dr Ben Diggles – Key lessons learned, Reducing the Footprint: Moving towards Low Impact Fisheries, and, Declines in bivalve populations in northern Moreton Bay

Answers to questions taken on notice

Australian Marine Conservation Society – List of scientific papers that describe the value and benefits of marine reserves (from public hearing, Canberra, 13 May 2011)

Department of Sustainability, Environment, Water, Population and Communities – Answers to questions taken on notice (from public hearing, Canberra, 13 May 2011)

Dr Ben Diggles – Answers to questions taken on notice (from public hearing, Canberra, 13 May 2011)

Dr Ben Diggles – Answers to questions taken on notice (from public hearing, Canberra, 13 May 2011)

Mr Wayne Bayne, Chair, Coral Sea Access Alliance – Answer to a question taken on notice (from public hearing, Canberra, 13 May 2011)

Professor Robert Kearney – Answer to a question taken on notice (from public hearing, Canberra, 13 May 2011)

Appendix 3

Public hearings

Friday, 13 May 2011 – Canberra

Associate Professor the Hon. Dr Ken Coghill, Private capacity

ANU Australian Centre for Environmental Law

Mr Andrew Macintosh, Research Fellow

Dr Ben Diggles, Private capacity

Professor Robert Kearney, Emeritus Professor, University of Canberra

Recfish Australia

Mr Russell Conway, Chair

Australian Fishing Trade Association

Mr Douglas Joyner, Executive Officer

SunFish Queensland

Mrs Judy Lynne, Executive Officer

Tin Can Bay Chamber of Commerce and Tourism Inc

Mr Kevin Reibel, President

Mr Peter Todd, Vice President

Coral Sea Access Alliance

Mr Wayne Bayne, Divisional Chair

Marine Queensland

Mr Donald Jones, Chief Executive Officer

Australian Marine Conservation Society

Mr Darren Kindleysides, Director

Australian Conservation Foundation

Mr Chris Smyth, Healthy Oceans Campaigner

Humane Society International

Mrs Alexia Wellbelove, Senior Program Manager

Pew Environment Group

Ms Imogen Zethoven, Director

Department of Sustainability, Environment, Water, Population and Communities

Mr Stephen Oxley, First Assistant Secretary, Marine Division