



Small Pelagic Fishery Dolphin Mitigation Strategy public comment submissions

March 2017 to April 2017

The Australian Fisheries Management Authority (AFMA) released two draft Dolphin Mitigation Strategies for public comment; one for the Small Pelagic Fishery (SPF) and the other for the Gillnet Hook and Trap (GHAT) sector of the Southern and Eastern Scalefish and Shark Fishery (SESSF). The one month public comment period opened on 15 March 2017 and closed on 12 April 2017. For the SPF Dolphin Mitigation Strategy, six submissions were received in total. All submissions received are included below, unless the person or body submitting them has requested that their submissions remain private.

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Submission 1 – Confidential

CONFIDENTIAL – Did not agree to submission being made public

Submission 2 – Confidential

CONFIDENTIAL – Did not agree to submission being made public

Submission 3 – Tasmanian Conservation Trust (TCT)

Date received: Tuesday 11 April 2017

Jon Bryan

Tasmanian Conservation Trust

Webform

Acknowledgement and consent:

- I agree to my submission being made public, including my name and organisation as the author of this submission.

1. Objectives of the Small Pelagic Fishery (SPF) Dolphin Strategy.

Comments and feedback

There should be an objective that states that the Small Pelagic Fishery (SPF) will aim to cause no deaths of dolphins. All possible steps should be taken to ensure that this fishery will not kill dolphins. Animal welfare considerations alone justify this approach and ecologically sustainable development is not relevant. It is not acceptable to operate a fishery where there is the expectation that dolphins will be drowned or crushed or injured or killed in fishing gear as an expected outcome. Recent history has shown that AFMA has been attempted to normalize dolphin deaths in the SPF and this should be stopped before it is taken any further.

Ecologically sustainable development should also be considered as part of the Draft Small Pelagic Fishery Dolphin Mitigation Strategy Minimising dolphin interactions in the Small Pelagic Fishery. Unfortunately, this document does not even mention the two dolphin populations that may be impacted by this fishery: inshore populations of bottlenose dolphins and the recently discovered Burrunan dolphin, *Tursiops australis*. The Burrunan dolphin is of particular concern. This species was recently described in 2011 and is only found in southeast Australia waters. These dolphins are easily confused with bottlenose dolphins, *Tursiops truncatus*. The total population appears to be very small and could be threatened even by low fishing mortalities. There is currently no requirement for the species of dolphins killed by the SPF to be positively identified. There needs to be a requirement for at least photos and tissue samples of dead animals to be retained and made available for public scrutiny to allow positive identifications to occur. Under current and proposed management arrangements for the SPF, the extinction of the Burrunan dolphin could occur because of the SPF without any warning

2. Rules for trawling operations within the fishery.

Comments and feedback

The risk of unwanted dolphin interactions (see comments below about the meaning of “interaction”) up to and including dolphin deaths is greatly increased during night fishing. Night fishing should be prohibited in the SPF.

The Draft Small Pelagic Fishery Dolphin Mitigation Strategy states in Section 3 that “Underpinning the SPF Strategy will be independent monitoring of dolphin (and other protected species) bycatch”. This is a worthy sentiment but meaningless unless details about how it is to be implemented are provided. Given the unacceptable history of repeated marine mammal deaths and the likely death of at least one whale shark because of the operation of the SPF there is a clear need to ensure that there is independent monitoring of the SPF. There should be 100% coverage of all SPF fishing operations by independent observers as well as 100% video monitoring of all deck operations, at least until stakeholders such as conservation groups and independent marine scientists are satisfied that the fishery is not killing dolphins on a regular basis. Video and other records should be made available to the public as soon as practically possible in the interests of transparency.

It should be noted that the use of excluder devices has regularly been touted as a way to prevent trawl gear killing seals and dolphins and have been a requirement in the Vessel Management Plans for the Geelong Star, despite the lack of evidence to support the notion that they prevent dolphin deaths or don’t simply injure and/or dump dead dolphins into the ocean before they are brought to the surface where they can be observed. It is therefore strange that excluder devices are not mentioned in this Draft Small Pelagic Fishery Dolphin Mitigation Strategy.

These must be used, but with the additional requirement that fishing only occurs during daytime and that there is 100% underwater video monitoring of the excluder device. The use and operation of excluder devices should be monitored and this requirement amended if evidence becomes available.

3. Performance criteria and management responses.

Comments and feedback

Any dolphin death occurring because of a fishing operation in the SPF should require an immediate cessation of fishing by the vessel involved its immediate return to port. The vessel operator and licence holder/s should be excluded from the fishery for 6 months. A review of the death should be carried out by an independent panel that includes scientists with relevant expertise and who are independent from AFMA and other relevant stakeholders including animal welfare groups and conservation groups. This panel should be set up by AFMA as soon as possible.

Mitigation measures should be implemented if necessary before licence holders and/or fishing vessels are permitted to operate in the SPF again.

4. Review and performance of the strategy

Comments and feedback

Section 4 indicates that SPF Strategy will be reviewed after 12 months but later in Section 5 it is stated that AFMA has used six months as the review period. This should be clarified.

The strategy should be reviewed every 6 months and at data collected for at least 3 years to take into account the seasonal variations that can be expected to occur.

5. Any other additional comments. If possible please specify the section in the Strategy the comments are related to.

Comments and feedback

Pair trawling should not be permitted in the SPF due to the increased speed of vessels during fishing operations and the resultant greatly increased threat to dolphins and other protected species.

The term “interaction” is not explicitly defined in the document Draft Small Pelagic Fishery Dolphin Mitigation Strategy. Is “interaction” a euphemism for dolphin deaths used to disguise dolphin kills?

Dictionary definitions of “interaction” include “an occasion when two or more people or things communicate with or react to each other” (<http://dictionary.cambridge.org/dictionary/english/interaction>) or “mutual or reciprocal action or influence” (<https://www.merriam-webster.com/dictionary/interaction>). These definitions appear to represent mainstream definitions. A casual reader might think that interactions are just that, relatively innocuous with little if any impact on the dolphins involved. However, given the history of dolphin deaths in the SPF and no other reference to dolphins being killed by the SPF, by the process of elimination it seems that interactions do actually mean deaths. Is AFMA so ashamed of the dolphin deaths associated with this fishery that it is trying to hide what is really going on?

There has been no formal assessment of population impacts by the SPF on any species of dolphin. Inshore populations of non-pelagic bottlenose dolphins and the Burrunan dolphin have been completely ignored. In the case of the Burrunan dolphin, which likely has a limited range and low population, additional mortalities caused by the SPF could result in a species extinction. AFMA does not even mention this species.

The lack of detail about monitoring and the failure to require adequate observer coverage and video monitoring of trawl gear underwater and deck operations

means that dolphin deaths and/or “interactions” will be hidden from public scrutiny.

This strategy will not adequately protect dolphins from being killed by operators in the SPF and will continue to raise community antagonism towards a fishery that already has so many longstanding management problems and poses significant risks to recreational fisheries and the marine environment.

Submission 4 – Australian Marine Conservation Society (AMCS)

Date Received: Tuesday 11 April 2017
Josh Coates
Australian Marine Conservation Society

Email

Re: Draft Small Pelagic Fishery Dolphin Mitigation Strategy

Dear Dr Findlay,

The Australian Marine Conservation Society (AMCS) is an independent charity, staffed by a committed group of professional and passionate scientists, educators and advocates who have defended Australia's oceans for 50 years. We represent over 210,000 individuals and businesses from around Australia.

AMCS appreciates the opportunity to provide comments on the *Draft Small Pelagic Fishery Dolphin Mitigation Strategy* (the strategy). We have a long-standing interest in the management of the Small Pelagic Fishery (SPF), with a particular focus on marine mammal bycatch issues. Our objective remains to ensure dolphin bycatch in the fishery is reduced to as close to zero as possible.

We acknowledge that spatial closures triggered by dolphin mortalities in the SPF have been a positive step to reduce the impact of fishing on dolphins. However, marine mammal bycatch remains a concern in this fishery. The fundamental approach of this strategy should be to prevent dolphin deaths, rather than to simply to react to them when they occur.

Pair Trawling

AMCS is concerned that the strategy covers pair trawling, which is not currently in use in the SPF. This is a form of fishing that comes at a considerable cost to marine mammals and is not supported by the Australian public.

If pair trawling is permitted, we would urge that a separate mitigation strategy is developed with public consultation with the implementation of more conservative measures, including (but not limited to) a cease fishing rule for any dolphin interaction, no night fishing, 100% observer coverage and development of a method for 100% in net video observer coverage.

What is an interaction?

The strategy fails to clearly define what is meant by “interaction”. This definition should be clearly defined in the document and should include any contact with fishing gear, regardless of whether or not the dolphin is landed or entangled.

Reporting and monitoring

AMCS believes that this fishery requires 100% underwater video monitoring, 100% video monitoring of deck operations and 100% observer coverage of all fishing operations.

Acceptable dolphin mortalities/ Performance measures (triggers)

As the Performance Measures are related to fishing trips and gear sets within a review period, it is unclear what number of dolphin mortalities AFMA consider to be acceptable within a given timeframe. Without details regarding fishing effort in the fishery a total annual mortality cannot be calculated.

In line with our comments regarding the Gillnet Hook and Trap Fishery (GHaTF) Dolphin Mitigation Strategy, AMCS supports return to port provisions following dolphin interactions, but we remain concerned about the cumulative impact of allowing six dolphin deaths per review period per operator. We recommend a fishery-wide trigger limit per review period to prevent excessive numbers of dolphin mortalities. This figure should be developed based on advice from researchers and academics with expertise in dolphin populations and natural mortality rates, as well as input from the Australian public to ensure the fishery has a social license to operate.

AMCS also supports a step-wise approach to managing the impact of fishing on dolphins, with an escalating management response following increased interactions. However, six dolphin mortalities in six months before the next management response cannot ensure dolphin populations are protected, especially in light of the absence of information on the dolphin abundances off southern Australia. We believe a more precautionary approach should be taken where the management response should be an exclusion from the fishery using gillnets for a six-month period, even if the operator has not exceeded the Maximum Interaction Rate in either of the previous two review periods. A mortality rate of six in a six-month period by a single operator is unacceptable and this should be clear to operators from the outset of implementation of the strategy.

Management measures previously in force mandated that if a single dolphin mortality occurs in any one of the seven SPF management zones, that respective zone will be closed for six months. This strategy represents a huge step backwards from that appropriate precautionary approach.

In the 2014 GHaTF Strategy, a move-on rule was included where if “one or more dolphins have been or are caught in a single gear set” the operator must “suspend fishing immediately, move operations by at least five nautical miles before recommencing fishing”. This trigger is missing from the current draft strategy, and should be included. We would expect to see the move-on provision included in the finalised strategy as part of the ‘Stop, Think Strategy’.

Night fishing

Given the difficulties night fishing causes in identifying and preventing dolphin and other marine mammal interaction AMCS supports reinstatement of the ban of night fishing in this fishery as precautionary measure. As a minimum, a dolphin interaction should trigger a cessation of night fishing for the rest of the review period.

Research Priorities

As noted in our submission on the GHaTF strategy there is a lack of crucial information on dolphin populations and abundance off southern Australia. While the strategy acknowledges the data gaps, AMCS expects AFMA to work with other Government agencies to secure funding to provide the necessary information.

Should you have any questions or comments on the issues raised in this submission, please do not hesitate to contact Josh Coates, AMCS Fisheries and Sustainable Seafood Campaigner on [REDACTED]

Yours sincerely,

Josh Coates
Fisheries and sustainable seafood campaigner
Australian Marine Conservation Society

Submission 5 – Confidential

CONFIDENTIAL – Did not agree to submission being made public

Submission 6 – Humane Society International (HSI)

Date Received: Wednesday 12 April 2017

Jessica Morris

Humane Society International

Email

Dear Dr Findlay

Re: Dolphin Management Strategy: Minimising dolphin interactions in the Small Pelagic Fishery

Humane Society International appreciates the opportunity to provide comments on the *Draft Small Pelagic Fishery Dolphin Strategy* (the strategy). As you will be aware our organisation has a long standing interest in the bycatch of dolphins in fisheries including the Small Pelagic Fishery (SPF), as well as participating in the Commonwealth Marine Mammal Working Group. Our supporters want to know that every effort is being taken by AFMA and the industry to reduce dolphin bycatch to as close to zero as possible.

Objectives of the strategy

HSI is concerned that the objective of the strategy is to minimise the bycatch, as opposed to reducing bycatch to as close to zero as possible. Whilst AFMA's use of the term minimise may have the same intent, we strongly recommend that the objective for zero bycatch be explicitly outlined in the strategy. While trigger limits are a management tool to minimise bycatch, industry should not receive the signal from AFMA that a certain level of dolphin bycatch is tolerable. The goal must be to always strive for zero dolphin capture.

Individual accountability

HSI understands that AFMA is embracing an approach based on individual accountability. We believe that this approach should not support business as usual but help ensure that repeat bycatch of dolphins is penalised by a withdrawal of the operator's right to fish. This will help ensure the adoption of best practices and innovative approaches to prevent bycatch, avoiding the previously used excuses approach, which has resulted in significant unreported dolphin bycatch in other fisheries. The strategy AFMA proposes relies on a high degree of independently verified monitoring. HSI would like to see included in the Strategy further details of observer coverage and monitoring of fishers. We appreciate that fishers who have misreported bycatch of dolphins will be subjected to 100% monitoring for a minimum of 6 months, but feel that there needs to be an increase in monitoring of fishers who have interactions with dolphins before they reach the Criterion of 4 captures which results again in 100% monitoring.

Scope of the strategy

HSI supports the implementation of trigger limits and performance measures, and a maximum interaction rate for dolphins as a tool to drive down bycatch rates.

However, we are concerned 1 dolphin in 50 gill sets is too high. It doesn't help that fishing effort has not been included in the Strategy to be able to determine how detrimental the cumulative impact of 1 dolphin in 50 gill sets may be, and therefore there is no way of calculating annual mortality across the fishery.

Again, HSI has concerns that the fisher and management response for the first performance measure (trigger) of "Any dolphins have been caught in a single gear set" does not have a 'move away' response for boats. History has demonstrated that one dolphin bycatch is likely to lead to more in that area so we consider this measure appropriate and should lessen the instance of more dolphin mortalities in a trip. The data should be analysed to verify industry claims that if they move on they are as likely to catch dolphins.

HSI is concerned 6 dolphins per review period per operator is too high to constrain the current catch. Please can AFMA advise the maximum and average catch per operator in the past three 6 month periods? We are also concerned that based on Criterion 6.2 an operator around Tasmania near to the border to the Eastern and Western areas of the fishery would be able to catch 12 dolphins in 12 months before being excluded from the whole fishery. One dolphin a month is far too many to be taken as bycatch in the fishery and therefore HSI urges that the criteria of 6 captures within 6 months be reduced to be more in line with public expectations and a precautionary approach. HSI further questions whether the review period will start from the commencement of the policy or if retrospective data from individual fishers will apply?

HSI also recommends that in addition to a limit of dolphin deaths per review period per operator there should be a fishery-wide trigger limit per review period in order to ensure excessive numbers of cetaceans are not killed. The cumulative trigger level should be set based on advice from researchers and academics with expertise in dolphin populations and natural mortality rates as well as public expectations.

We also recommend it be very clear that limits will be continuously revised downwards to reflect improved practices and technological advancements.

We recommend that the strategy should define an "interaction" and the definition should include any capture as well as mortality and any contact with fishing gear regardless of whether or not the dolphin is landed or entangled. Whilst we recognise that e-monitoring is a requirement to fish, if a dolphin is observed to drop out of the gillnet it will often not be easily distinguishable as a mortality so should be put down as a capture. This leaves the system open to potential abuse by operators, and we consider that the catch alone of an increased number of dolphins to be sufficient for the operator to return to report and review the factors involved. All captures should count towards the triggers. Therefore, an "interaction" should be defined to cover this concern.

Pair trawling

HSI is alarmed by the mention of pair trawling in the Strategy. We understand that pair trawling is yet to be approved in the SPF but we would again like to express our opposition to pair trawling in Australian fisheries. We submitted our comments to AFMA earlier this year showing that pair trawling is one of the most detrimental fishing methods for marine mammals. If pair trawling was to be approved in the SPF then this Strategy would have to have separate and more conservative measures for Pair Trawling due to the high risk of dolphin mortality with this fishing method. Again we would like to reiterate that the approval of pair trawling in the SPF would be against our advice.

Actions to achieve the objectives

HSI support the actions listed to achieve the objectives and urge these to be shared not only within the SPF as a whole, but across all Commonwealth fisheries who may have dolphin bycatch, particularly if found to be successful in eliminating dolphin bycatch.

Performance measures and Dolphin Mitigation Plans

Our organisation supports the implementation of strict performance measures or triggers, in that a management response must be enacted after the bycatch of one dolphin. We consider that triggers must also be set across Commonwealth fisheries more broadly to encourage action by all fishers, and not restrict management responses to one area, when it is clear that dolphin bycatch is a bigger problem across all fisheries.

Research

As with any species in which data is lacking on population and abundance we urge AFMA to work to the precautionary principle when considering the bycatch of cetaceans in Commonwealth fisheries. We would also like to see the commission of research into populations of specific cetacean species such as those often affected by fishing in the SPF. More research will better determine the risks to populations, areas of critical habitat and help to implement tools to minimise interactions with dolphins as part of the Strategy.

HSI supports the development of Dolphin Mitigation Plans, and urges AFMA to ensure that worldwide best practice is used to assist in the development of these plans. To reiterate we recommend zero bycatch is in line with public expectations. Trigger limits should not signal that a level of bycatch is tolerable but be clearly understood to be a management tool used to drive bycatch down to as close to zero as possible. These plans must also be regularly reviewed to reflect any emerging best practice and to put downward pressure on triggers to continually constrain the catch.

Should you have any questions or comments on the issues raised in this submission please do not hesitate to contact HSI [REDACTED]

Yours sincerely,

Jessica Morris
Marine Scientist
Humane Society International