Australian Government
Department of Agriculture

Regulation Impact Statement

Future status of super trawlers

OBPR Reference number: 17021

Contents

1. Identified problem

In September 2012, the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) was amended to include Part 15B. The amendment enabled the Environment Minister, with the agreement of the Fisheries Minister, to prohibit certain commercial fishing activities while an expert panel undertook an assessment of those activities. A two year prohibition on fishing vessels greater than 130 metres in length and in excess of 2 000 tonnes storage capacity from operating in the Commonwealth Small Pelagic Fishery (SPF) was enacted on 19 November 2012 and has now expired (first declaration). A second two year prohibition on vessels with storage capacity for fish product of 1 600 tonnes or greater engaged in fishing or transhipment activities in the SPF was enacted on 26 April 2013 and will expire on 24 April 2015 (second declaration). These bans were made by the Environment Minister and agreed by the Fisheries Minister following advice from their respective departments that there was sufficient uncertainty about the potential impact of very large fishing vessels on the Commonwealth marine environment. The provisions to make such declarations have since expired through a sunset clause.

The amendment and subsequent temporary prohibitions were prompted by a proposal from an Australian operator and Dutch company to use a 143 metre mid-water trawl fishing vessel, the *Margiris* (later renamed the *Abel Tasman*), in the SPF. The vessel had an on-board processing facility and storage capacity for fish and/or fish products of approximately 4 500 tonnes. Vessels of this size and nature had not previously operated in an Australian fishery leading to a significant amount of uncertainty about their potential impact on fish stocks and the broader marine environment. At that time, the government was advised that experience in overseas fisheries indicates that fishing vessels of this scale and capability are capable of significant environmental detriment in a relatively short period if appropriate mitigation measures are not employed (ABARES 2012). The *Abel Tasman* was one of a small class of very large mid-water trawlers. Within the European fleet of several thousand trawlers and other types of ocean going fishing vessels, the Margiris/Abel Tasman and her two sister ships were the second largest in the fleet with only one larger fishing vessel known.

The temporary prohibitions were designed to allow time for the government to investigate and consider further advice about the possible adverse environmental impacts of these very large fishing vessels to attempt to reduce the uncertainty (about the type and scale of damage) to acceptable levels of known impacts of current and previous fishing activity. The first declaration addressed the *Margiris* or a similar vessel operating as a fishing vessel, while the second declaration concerned the *Margiris* or similar vessel operating as a processing and storage vessel in association with an unspecified number of smaller fishing vessels.

An independent report, written by a scientific expert panel was submitted to the government in October 2014 that provides advice on the potential adverse impacts and uncertainty relating to the operation of these vessels could have on the Commonwealth marine environment.

Although uncertainty and risk is inherent to fisheries management, mainly due to the expense and difficulty in obtaining complete information, there is no defined level at which this uncertainty or risk can be deemed acceptable. Rather, these considerations are made on a case-by-case basis in consideration with the objectives of the relevant environment and fisheries

legislation. It is known that smaller fishing vessels do interact with protected species and have an impact on the marine environment. These known impacts are mitigated under current fisheries management arrangements. In this instance, it is considered the unprecedented increase in the scale of commercial fishing activity presents an unacceptable level of risk to the marine environment. This is based on advice from the Expert Panel that considerable uncertainty remains about the scale of impact of a very large freezer-factory trawler operating in the SPF, the size of which has never previously operated in an Australian fishery, particularly in relation to impacts on species protected or considered at risk of extinction under the EPBC Act.

The Australian Government has indicated its preference to respond to the findings of the scientific report by prohibiting the future operation of these fishing vessels in all Commonwealth fisheries. A second independent scientific report on the potential for adverse environmental impacts from the use of mid-water trawl vessels with storage capacity for fish product of 1 600 tonnes or greater engaged in fishing or transhipment activities will be provided to the Minister for the Environment by 27 March 2015. This report will be considered by government in relation to any evidence that the use of a large vessel to tranship the catches of multiple small vessels is a further problem in need of government consideration.

2. Background

2.1 Commonwealth fisheries management regime

Australia has a comprehensive fisheries management framework that, through both fisheries and environment legislation, manages for the sustainable use of Australia's living marine resources and marine environment. The *Fisheries Management Act 1991* and the *Fisheries Administration Act 1991* set out the roles and responsibilities of the Australian Fisheries Management Authority (AFMA) and provisions related to the optimal utilisation of resources and principles of ecologically sustainable development. The EPBC Act also includes a number of provisions relating to the sustainable management of Australian fisheries. AFMA, as the Commonwealth agency responsible for the management of commercial fisheries, administers these fisheries in a manner consistent with policy, applicable legislation and regulations.

The *Fisheries Management Act 1991* includes guidance on the application of the precautionary principle to obtain ecologically sustainable development and the powers to regulate certain fishing activities. The precautionary principle provides that where there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation and decisions should be guided by "*careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment; and an assessment of the risk-weighted consequences of various options*" (COAG 1992). In particular, Section 14 of the *Fisheries Management Act 1991* provides that regulations may prohibit, for the purpose of conserving the marine environment, the engaging in specified activities, or the use of specified practices, or the use of specified fishing equipment.

2.2 The Commonwealth Small Pelagic Fishery and use of large mid-water trawl vessels

The SPF operates off southern Australia targeting small pelagic fish species including blue mackerel, jack mackerel, redbait and Australian sardine. It extends from southern Queensland to southern Western Australia (Map 1), and is considered a low value/high volume fishery due to the low market prices for these fish species and the relatively large amount of fish biomass. AFMA manages the fishery in accordance with the *Small Pelagic Fishery Management Plan 2009*, which provides for a system of individual transferable quotas for each of the four key target species. These take the form of statutory fishing rights authorising fishing for the quota species in a sub-area or part of a sub-area of the fishery. The annual total allowable catch of each species in the fishery, determined according to decision rules in the fishery's harvest strategy (AFMA 2008), is allocated between boats depending on the number of quota statutory fishing rights nominated to that boat. Catch in the fishery has decreased since 2003-04, however, this appears to be driven by economics and logistical limitations, rather than any decline in resource abundance. Total catch in 2012-13 was 16 tonnes, less than 0.1 per cent of the annual total allowable catch. Since 2007-08, fewer than five vessels have operated in the fishery each year (two in 2012-13). Historically, most of the catch from the fishery was used for fish meal and food for ranched tuna. The use of freezer boats appears to present an opportunity to produce product of a quality suitable for the higher priced human consumption market.

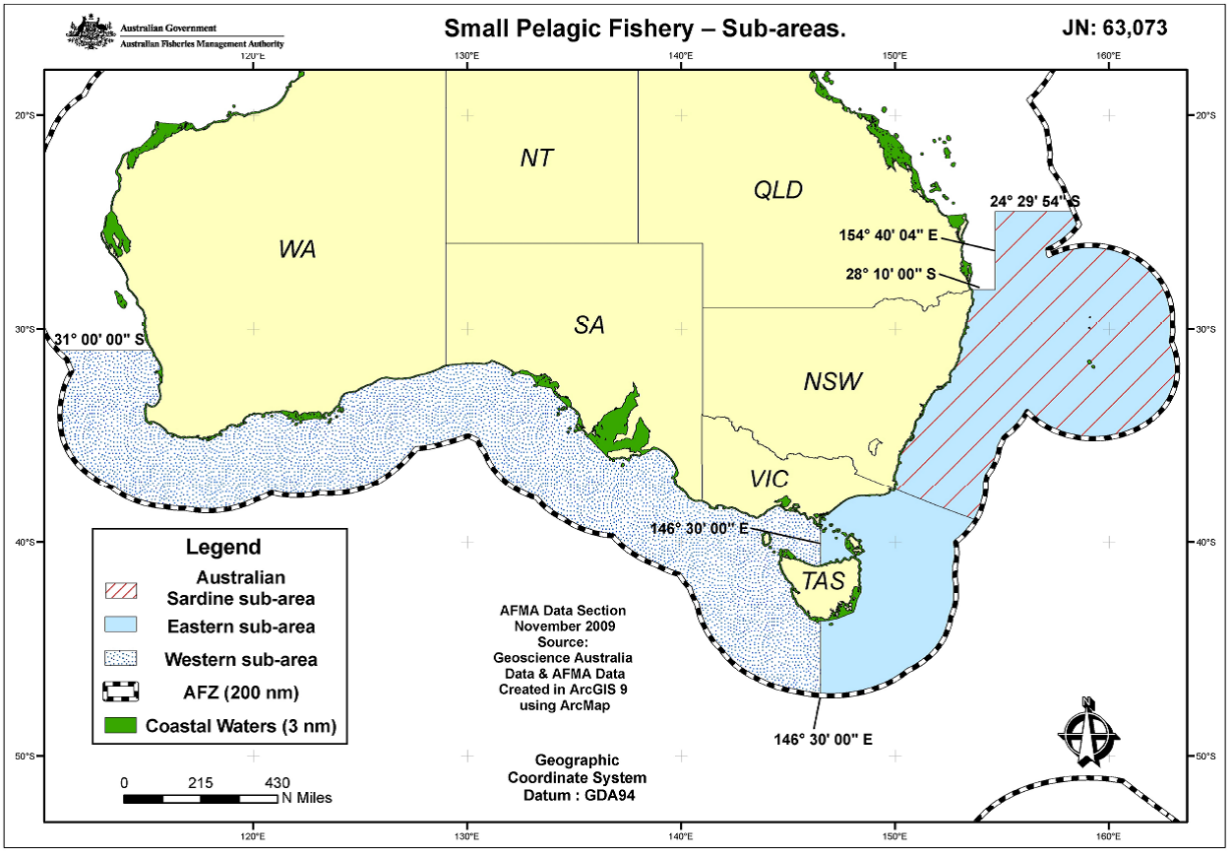
The SPF has been the subject of both proposals to introduce larger mid-water trawl vessels than have previously operated in any Australian fishery. Large vessels are used internationally for small pelagic fisheries because they allow catch to be processed on board immediately after catch. This avoids product spoilage, and also allows efficiencies in distribution as it may significantly shorten supply chains. Although larger vessels operate in some other Commonwealth fisheries such as the Heard Island and MacDonald Islands Fishery (a fishery with large distance from ports that requires on-board capacity, but targets high-value, low-volume species), the SPF is most likely to be the fishery subject to future interest in using large fishing vessels due to the availability of unfished quota.

2.3 The Expert Panel on a Declared Commercial Fishing Activity

The Expert Panel on a Declared Commercial Fishing Activity established under the first declaration reported to the Minister for the Environment on 22 October 2014, with the report published on the Department of the Environment website on 19 November 2014 (Expert Panel on a Declared Commercial Fishing Activity 2014). The first Expert Panel investigated the potential impacts of the Declared Commercial Fishing Activity (DCFA), that is, using a mid-water trawl vessel over 130m in length overall and 2 000 tonnes storage capacity for fish-product, in the SPF. In addressing its terms of reference, the Expert Panel's report draws on and presents a substantial, comprehensive and credible review of related research and management information. This includes research from the SPF, other Australian and overseas fisheries and the related ecosystems and species, in particular protected species. The assessment in particular related to:

- the likely nature and extent of direct interactions of the DCFA with species protected under the EPBC Act, particularly seals and dolphins; and
- the potential for any localised depletion of SPF target species, arising from the DCFA to result in adverse impacts to the Commonwealth marine environment, including target species' predators protected under the EPBC Act.

Figure 1: Extent of the Small Pelagic Fishery



Source: Commonwealth of Australia 200

Based on its assessment of those issues, and consideration of the proposed management of the DCFA, the Expert Panel provided advice on actions that could be taken to avoid, reduce and mitigate adverse environmental impacts of the DCFA and on scientific research and monitoring that could reduce uncertainties about those impacts. The Expert Panel concluded that considerable uncertainty remains about the scale of impact of the DCFA, particularly impacts on species protected or considered at risk of extinction under the EPBC Act. The Expert Panel however did not make any specific recommendations about the appropriateness of the DCFA in the fishery.

Specifically, the Expert Panel found that direct interactions with protected species are inevitable and will result in mortalities regardless of the adoption of the best available mitigation and management measures. Furthermore, the panel considered that localised depletion caused by the DCFA has the potential to have adverse impacts on protected species and that under the current monitoring regime it is unlikely that such impacts would be detected.

The panel identified many possible management and operational responses and opportunities for research and monitoring to address the risks associated with the impacts of the DCFA on the Commonwealth marine environment, particularly for protected species of seals and dolphins. Of those, the panel considers that the following actions and associated research are central to addressing those risks:

Spatial closures

- Mitigate bycatch mortality of the threatened Australian sea lion in the SPF area by implementing spatial closures that encompass foraging areas around all colonies, including those in waters off Western Australia.
- Mitigate bycatch mortality of fur seals by implementing spatial closures especially adjacent to breeding colonies.
- Mitigate against the potential adverse impacts of localised depletion on protected CPF species by implementing closures that preclude the DCFA from critical habitats at important times.

Excluder devices

- Develop and optimise an excluder device or devices for seal and dolphin bycatch mitigation.
- Once the excluder device is operational, use underwater video to monitor the behaviour of marine mammals within the trawl net and in the vicinity of the excluder device to assess its efficacy and quantify levels of cryptic mortality.

Trigger limits

- Reduce the daily and per-shot trigger limits for fur seals under which the DCFA was proposed to operate.
- Introduce a bycatch rate trigger limit for the fishery or fishing area, or a total mortality trigger for a fishing season and/or fishing areas, for fur seal and dolphin species.
- Ensure that move-on rules associated with trigger limits are evidence-based or implemented on a precautionary basis where necessary.
- Ensure that move-on rules associated with trigger limits can be implemented effectively by requiring 100 per cent observer coverage of all fishing operations and ensuring that underwater interactions and mortalities are detected quickly enough to allow move-on rules to be effected in a timely manner.

Research

- Identify critical habitats for protected species including key foraging areas for central placed foragers (seabirds and pinnipeds) and important habitats used by cetaceans that are at increased risk of interaction with the DCFA.
- Determine the cumulative fishery-related mortality of protected species in the SPF area that interact with the DCFA, to ensure that this does not compromise the sustainability of their populations.
- Confirm the integrity of the current management of SPF target stocks by clarifying the extent of sub-structuring of SPF target species in the Eastern and Western zones.

A second Expert Panel is undertaking an assessment of the potential for adverse environmental impacts of fishing activities prohibited by the second temporary declaration. It may provide advice on additional mitigation measures and areas of uncertainty that require further research in relation to vessels with a storage capacity over 1 600 tonnes undertaking fishing activities in the SPF. However, as both declarations were designed to capture large vessels undertaking fishing activities in the SPF, either alone or in cooperation with a number of smaller fishing

vessels due to uncertainty surrounding the environmental impact. It is likely that an appropriate government response to the first expert panel report will pre-empt many of the issues raised in by the second expert panel.

3. Rationale for government intervention

The *Fisheries Management Act 1991* requires the regulator, inter alia, to ensure that the exploitation of Commonwealth fisheries is consistent with the principles of ecologically sustainable development, including the exercise of the precautionary principle, and having regard to the impact of fishing activities on non-target species and long term sustainability of the marine environment. The Expert Panel report proposes a substantial and costly research agenda combined with a series of relatively onerous (for the fisher) management requirements which the panel equates with a precautionary approach to managing the fishery.

The regulator, AFMA, could decide that neither the research nor the management requirements were necessary to manage the fishery in a manner consistent with its legislative requirements. However, the findings of the Expert Panel have not been scientifically or technically challenged since public release, and the report is generally regarded as a credible analysis that is consistent with the terms of reference. It is also possible, although unclear, that the Department of the Environment might use its powers under the EPBC Act to require some or all of the elements requested by the Expert Panel to be implemented.

Alternatively, AFMA could close the fishery and require the fishing industry/quota holders in the fishery to fund the required research and leave the fishery closed until the results were assessed. Given there has been little fishing in this fishery for some time, and only one company is seeking to fish for a significant part of the quota, there seems little likelihood that the substantial funding over several years could be found by the industry. This is particularly the case when the outcomes of the research are uncertain and the proposed onerous management would remain.

Fish stocks and the marine environment are a shared public good that the government is responsible for managing sustainably on behalf of the Australian people. The Australian Government has the constitutional power to legislate what commercial fishing activity occurs in Australian waters. Under the *Fisheries Management Act 1991*, the Commonwealth has jurisdiction over the Australian fishing zone, which is generally 3 to 200 nautical miles from the coastline. Direct government intervention prohibits the use of drift nets and fishing for certain species of marlin as the government has previously decided there is an unacceptable risk posed by these activities that the market will not mitigate without intervention.

The original rationale for government intervention in 2012 was due to concerns that the existing fishery management regulations were not fully able to consider and respond to the potential impacts of large trawlers in the SPF. The absence of regulations addressing the risks/uncertainties associated with large trawlers has the potential for significant effects upon the marine environment and species listed under the EBPC Act — such as the Australian Fur Seal, New Zealand Fur Seal, Australian Sea Lion and dolphins. This led to the government imposing a temporary ban on these activities to allow an Expert Panel to investigate these risks and uncertainties. The Expert Panel has now delivered its report and the government is in a position, informed by its findings and broader stakeholder views, to decide on the most appropriate long term management option for large vessels in Commonwealth fisheries.

The Expert Panel concluded that there remains considerable uncertainty and that while mitigation strategies could be explored, the operation of large vessels will present considerable environmental risk regardless of these strategies being adopted. An important consideration is what level of uncertainty and risk is acceptable in fishing and whether these mitigation strategies would reduce these to an acceptable level. Some level of uncertainty is inherent in all fishing activities; however, neither the *Fisheries Management Act 1991* nor the EPBC Act defines a threshold limit for acceptable uncertainty. This means that, in practice, the level of uncertainty that is acceptable is ultimately determined on a case-by-case basis by the government with regard to the available evidence, the application of the precautionary principle and the objects of the relevant legislation. In particular the EPBC Act includes the objective of providing for the protection of the marine environment, particularly in relation to listed threatened species. Whilst research could be undertaken to attempt to quantify this risk it is not clear that research will be able to do that or lead to effective mitigation of the risk. In this instance, it is considered the unprecedented increase in the scale of commercial fishing activity presents an unacceptable level of risk to the marine environment.

The EPBC Act requires the fisheries regulator to put in place a fisheries management plan that ensures that the licensed fishing operators take all reasonable steps to avoid interaction with listed (threatened, endangered and protected) species. In administering the EPBC Act as it applies to Commonwealth fisheries, the Department of the Environment does not set quantitative limits for such interactions and exercise the right to revisit approvals and seek new provisions in management plans where levels of interactions may appear elevated. The Expert Panel has analysed a range of possible sources of increased interaction with a variety of different species and provided an extensive range of advice in relation to marine mammals, seabirds and target finfish species. Most of these measures are aimed at reducing the uncertainty of impact on the marine environment of fishing in the specified manner. Given neither the industry nor the government agencies have the resources to address the full suite of advice from the Expert Panel, the issue of risk or uncertainty of impact is likely to remain unresolved. One solution would be to permit the vessel to fish for multiple seasons and then to assess its impact. However this approach may be perceived to contravene the precautionary principle.

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A Post-Implementation Review of the first declaration undertaken by the Department of the Environment, in consultation with the Office of Best Practice Regulation, has concluded that the first declaration met its objectives and provided an overall net benefit. The government has also publicly stated on 24 December 2014 of their intention to prohibit all fishing vessels over 130 metres from the Australian fishing zone (Colbeck 2014), in line with a statement made by the Prime Minister in Parliament on the 4 March 2014 (Commonwealth of Australia 2014) that the "*super trawler will remain banned from Australian waters*".

4. Policy options

This proposal considers the following options for addressing the identified problem.

1. **No intervention**–the current declarations lapse, there is no government response to the Expert Panel report and no further actions are taken to prohibit or regulate super trawlers in Australian fisheries.
2. **Fully implement key advice of the first Expert Panel, including introducing additional regulations across the fishery and invest in the necessary scientific research to reduce uncertainty**–Allow super trawlers to operate in Commonwealth waters subject to the additional controls recommended by the Expert Panel and fund, via the government's cost recovery framework, the suggested scientific research to further reduce the uncertainty of environmental impacts.
3. **Prohibit super trawlers**–introduce regulations under the *Fisheries Management Act 1991* that define and prohibit super trawlers from fishing in Commonwealth waters.

There is no commonly accepted definition of a super trawler. For the purpose of this impact statement, the following definition is proposed:

a fishing boat over 130 metres in length overall undertaking fishing related activities

This definition is a simplified version of that used in the first Expert Panel report and length is the simplest and most realiable proxy for the fishing capacity of a vessel. A vessel could be defined based on a number of characteristics, including length, storage capacity, processing capacity, fishing method, gear type, net size, engine power, or a combination of these. However, many characteristics are difficult to accurately determine, and each is not necessarily proportionate with others, For example, an 80 metre vessel could use a larger net than a 140 metre vessel. A trawler's overall length is generally associated with its processing and storage capacity. Vessel length is a characteristic that is immediately evident and can be definitively determined and unlike storage capacity is not able to be easily or quickly modified. A definition that uses both length and storage capacity is considered to be redundant and introduce unnecessary complexity and compliance issues.

This definition is also considered in light of what is known of the global fishing fleet and knowledge of vessels that have previously operated in Australian and similar New Zealand fisheries. For example, vessels of 100 to 110 metres in length have been operating in New Zealand fisheries for up to twenty years without unacceptable impacts or community resistance. Australia's south-eastern fisheries, particularly the SPF and the Southern and Eastern Scalefish and Shark Fishery, share similarities with New Zealand fisheries both in target stocks and management settings.

5. Impact analysis

Overall, Commonwealth fisheries have an annual value of production of around $380 million and there are less than 600 entities directly involved in the industry as vessel owner/operators or rights holders. Commonwealth fisheries are heavily regulated, although the bulk of this regulation impacts business in terms of direct financial costs and opportunity costs (not including delay opportunity costs). A fishing business experiences most costs as direct costs passed on from the regulator as levies. Levies contribute to the cost of managing the fishery, the cost of having consultative forums, administration of logbooks and applications, quota administration, observer costs and research projects. Indirect costs, some of which are passed on, are associated with maintaining the necessary approvals under the EPBC Act and indirect and opportunity costs associated with maintaining an evidence base of what is happening in a fishery. Generally, changes in regulatory arrangements for fisheries are not recognised as either savings or increases in regulatory burden under the government's Regulatory Burden Measurement (RBM) Framework (OBPR 2014). This framework excludes opportunity costs (not associated with delay) and direct costs such as levies and permit fees.

The maximum economic potential of a fishery can generally be expected to be achieved through a rights-based management system. Under such a system fisheries managers seek to set maximum allowable catch levels for species, after which quota holders are allocated tradeable rights to fish. The use of such output controls together with tradeable fishing rights encourages fishers to achieve higher levels of profitability, by being given the flexibility to choose the best mix of inputs to achieve their profit maximising level of output. Restrictions on the input mix an industry can use, such as limiting the size of a vessel, however are frequently imposed by regulators to ensure that industries through their operation do not lead to unintended negative consequences to the environment or general community.

Based on the current regulatory environment and economic condition of Commonwealth fisheries, the following impact analysis seeks to analyse the benefits and costs of the various policy options being considered, including any cost to businesses, individuals or community organisations under the RBM framework.

5.1 No intervention

If the government was to take no further action, the second declaration will expire on 24 April 2015 and there would be no specific regulations relating to large fishing vessels operating in Commonwealth waters. The power to make similar declarations under the EPBC Act has also lapsed due to a sun setting provision and therefore, the government has no legal powers to impose similar bans under the EPBC Act if required in the future without further changes to legislation. The government has already announced on 24 December 2014 its intention to prohibit fishing vessels greater than 130 metres in length from the Australian fishing zone and there is an expectation from community and industry that this statement will be brought into effect.

Under this scenario, AFMA would regulate the operation of a vessel including those over 130 meters in length within existing management arrangements. Under these arrangements AFMA has the discretion to impose certain conditions under individualised vessel management plans. These conditions include, designating the level of independent observer coverage, the use of by-catch excluder devices and assigning move-on provisions. The findings in the Expert Panel

report would be expected to influence the conditions imposed by AFMA under individualised vessel management plans. As AFMA is an independent statutory authority, the government has limited powers to require AFMA to establish specific conditions and it is unclear what, if any, of the expert panel findings AFMA would adopt. Given the complexity and high cost of the research recommended it is unclear how AFMA could respond to these elements of the report. It could close the fishery pending some or all of the science being undertaken by parties unknown.

Based on the 2012 experience and in the absence of a clear government policy, it is unlikely that any vessels over 130 metres will attempt to fish in the Australian Fishing Zone in the foreseeable future. Therefore, there is unlikely to be any change to the current level and scale of fishing within the SPF.

Estimated impact

The Commonwealth fisheries management regime aims to take into account the best available scientific information to make management decisions. In this instance, it would be unusual for the government to not respond to the substantial, comprehensive and credible review of related research and management information about the Small Pelagic Fishery provided by the Expert Panel. It is difficult to estimate what the resulting impact would be on the Commonwealth marine environment by not taking into account key advice of the Expert Panel and continuing to operate under current management settings. As there is very little fishing occurring in the SPF there is no current significant impacts on the target stocks or protected species, though these impacts would increase if substantial fishing activity were to occur in the future. The Expert Panel noted that under the current monitoring regime of fishing activities by AFMA and the Commonwealth, adverse impacts on protected species from localised depletion in particular is unlikely to be detected.

The first prohibition was a precautionary measure designed to allow further information to be analysed about the fishing method; hence the establishment of the Expert Panel. Not addressing the key advice presented by the Expert Panel would likely be interpreted by the public as inaction, particularly as the uncertainty has not been resolved or mitigated. Such perceived inaction would likely not meet community expectations and campaigns from conservation groups and recreational fishers would likely continue. Further, the policy of the government on this issue would likely be seen as confusing to the public, particularly due to the governments public statements on this issue. This could lead to diminished public confidence in the strength of Australian fisheries management and the commercial fishing industry's social licence to operate, not only in the SPF, but across all Australian fisheries.

Investing in research in Australian fisheries is closely aligned with the level of utilisation of a fishery. The largest investment in research effort tends to occur in the most profitable fisheries where the economic incentive to maximise extraction of the resource is greatest. Significant under-utilisation of the SPF has occurred and a substantial investment in research in the SPF fishery has been undertaken by government with almost no provision for cost recovery. The timescale that would be required to match the research effort with the quota holder's ability to contribute through levies would have meant that improvements in stock assessments and methodology would not be seen for several years.

It is likely that the level of research will decline and the total allowable catch limits reduce as the data ages further. This will further reduce the evidence base available about the fishery and limit any future utilisation of its resources. If it is the case that more research needs to be

undertaken in a particular area, and there are not funds available from industry investment in a fishery, government funds would have to be diverted from other priorities to address these research gaps.

The possibility of reactive bans aimed at addressing the risk of large boats already in port as occurred in 2012 is also a risk. In its submission as a declaration affected person in relation to the first interim declaration, the operator of the *Abel Tasman* claimed that being unable to fish led to a direct loss of profit from fishing of around $21 million per annum–based upon claimed potential earnings of $36 million with operating costs of $15 million per annum. However, caution should be used with these figures given that the claimed income is the same as that calculated by Ross (2012) for the whole fishery. The operator of the *Abel Tasman* also advised that it expended $7 million in bringing the vessel to Australia and other refurbishment, wharf and licensing costs.

There would be no reason why the current under-utilisation of this fishery would not continue under the status-quo. As a result, the net economic return to the Australian community will remain negligible as the average vessel size remains small and the number of boats fishing in the SPF remains low. This results in a large latent quota and an inferior product, with limited value adding opportunities, due to lack of freezing capacity on smaller boats. Due to the small number of operators in the SPF the total Gross Value Production (GVP) of the fishery is confidential; however, we know that the total catch in recent years has been insignificant. For example, in the 2011-12 and 2012-13 fishing seasons only 153 tonnes and 16 tonnes respectively was caught out of the total allowable catch of 34 950 tonnes (AFMA 2014). Based on the prices for sardines landed by South Australian fishers, and Jack Mackerel in New South Wales, against the this total allowable catch suggests that the forgone GVP from the SPF between $20 and $42 million (ABARES 2014).

Regulatory burden

This course of action would not present additional direct regulation on Australian businesses, individuals or communities. There would be significant risk that the public perceives the government is not addressing community concerns about super trawlers in Australian waters, which could lead to direct costs to business and, as evidenced in 2012, these costs could be significant. However it is not possible to estimate these costs in the future. Business and investment confidence is also unlikely to be fully restored if there is not a clear statement from government in relation to the ongoing permission for larger, more efficient fishing vessels to undertake fishing activities in Australian fisheries.

Table 1; Average Annual Compliance Costs (from Business as usual)

Costs ($m)	**Business**	**Community Organisations**	**Individuals**	**Total Cost**
Total by Sector	$0	$0	$0	$0

Proposal is cost neutral? N/A
Proposal is deregulatory N/A
Balance of cost offsets N/A

5.2 Fully implement key advice of the first Expert Panel, including introducing additional regulations specifically for super trawlers and invest in the necessary scientific research

The Expert Panel proposed measures to reduce the risk of potential adverse impacts on the Commonwealth marine environment which could be taken into account through existing processes; the Department of the Environment could ask AFMA to consider the Expert Panel's report and present to the Environment portfolio proposed management arrangements that take into account the key advice of the Expert Panel. This would be subject to negotiation between the two agencies and agreement would be formalised under Part 13 of the EPBC Act. These conditions may be applied to operators with a vessel that meets the definition proposed in this regulatory impact analysis and investigated by the Expert Panel or could apply to all vessels in the fishery depending on the nature of the measure. The norm in Australian fisheries management is to apply conditions uniformly across a particular fishery to ensure market distortions are not created by the implementation of the measure to one sub-sector.

Key advice from the Expert Panel was that additional fishery management actions could help to reduce the risk of super trawlers having significant adverse environmental impacts on EPBC Act protected species. However the Expert Panel was not able to guarantee that these actions would effectively mitigate this risk. Suggested additional actions include:

1. implementing spatial closures of fishing areas around all sea lion and fur seal colonies and covering critical habitats at important times
2. more restrictive trigger limits and move-on rules for seal and dolphin mortality
3. 100 per cent observer coverage of all fishing operations and bycatch exclusion devices
4. use of underwater video to monitor the behaviour of marine mammals within the trawl net and in the vicinity of the excluder devices, requiring live monitoring of a screen.

These practices could be integrated in the SPF in line with normal processes between AFMA and the Department of the Environment. These conditions would result in substantial increased compliance/operating costs for the fishers operating in the fishery and increased management costs for the fishery as a whole under current cost recovery arrangements. For those measures that could be applied to large vessels only it would also present an increase in regulatory burden for the small number of operators that may seek to use a large mid-water trawl vessel to fish.

The Expert Panel also outlined a number of areas for further scientific research that is required to reduce considerable uncertainty that remains, particularly in relation to direct interactions with protected species and the potential for localised depletion to result in adverse environmental impacts on some protected species. This further research would require substantial financial investment by government and/or industry or the reallocation of existing research dollars.

There is a small pelagic fish research programme underway to update and improve the scientific information available for management of the target stocks in the SPF, coordinated by the Fisheries Research and Development Corporation (FRDC) at a total cost of some $2.2 million. This work will not address research identified by the first Expert Panel report.

Estimated impact

The direct compliance cost of additional fisheries management actions could be limited to those vessels over 130 meters that operated within the SPF, but more practically they would likely be implemented across the whole fishery. There are only a limited number of vessels of this size world-wide; however, this number is likely to increase in the future. Based on this it is estimated that an average of one vessel over 130 metres would seek permission to fish in Commonwealth waters each year.

These vessels would provide the scale and processing capacity to deliver a higher quality and higher value product with the potential for further value adding up the supply chain. However, these benefits could also be achieved with boats smaller than 130 metres, which would not be subject to the additional regulatory burden.

As there is next to no current exploitation of the SPF fishery competition effects would be limited to non-existent. The Expert Panel was clear that, even with all mitigation strategies employed and research undertaken, the risk of environmental damage resulting from vessels of this size was unavoidable and in many cases unquantifiable.

The additional research recommended by the Expert Panel is estimated to be expensive. Under a current small pelagic fisheries research programme, close to $1.5 million has already been invested, out of the $2.2 million planned, in improving knowledge about the target fish stocks in the SPF. However, to fully implement the research recommended by the Expert Panel, it is estimated that between $10 and $18 million would be required over the first three years. The research recommended by the Expert Panel includes:

1. Identification of critical habitats for protected species including key foraging areas for central placed foragers (seabirds and pinnipeds) and important habitats used by cetaceans that are at increased risk of interaction with these vessels. Identifying critical habitats would involve research over various spatial and temporal scales and is estimated to cost between $2 and $3 million. Similar research to identify critical foraging habitats for seabirds for the Great Barrier Reef cost over $1 million (Congdon et al. 2015).
2. Determination of the cumulative fishery-related mortality of protected species, to ensure that this does not compromise the sustainability of their populations. This is an estimated research and development cost of three to ten years and $5-10 million, based on the significant resources required to monitor numerous populations of species over appropriate temporal scales (Goldsworthy et al. 2014).
3. Confirmation of the integrity of the current management of SPF target stocks by clarifying the extent of sub-structuring of SPF target species in the Eastern and Western zones. Small pelagic stocks span a large spatial scale and this research is estimated to cost $2-3 million based on previous research undertaking full surveys of small pelagic stocks (izzo et al. 2009).
4. Development and optimisation of an excluder device or devices for seal and dolphin bycatch mitigation. This is an estimated research and development cost of three to five years and $1-2 million. This estimate is based on evidence regarding the cost for designing, trialling and evaluating new seal excluder devices for wet boats in the South East Trawl Fishery (South East Trawl Fisheries Association 2009) and applying this for seal and dolphin bycatch mitigation across numerous fisheries.

Under current cost recovery arrangements, these costs would be substantially borne by the fishers exploiting the SPF. If required investment to fund this research in the SPF is not forthcoming by industry and AFMA is not able to cost recover the expenditure, it could result in the effective closure of the fishery. In addition, the research would only benefit a small fraction

of the potential fishing fleet within the SPF (those vessels over 130 meters), yet the costs would be borne by the entire fleet through the levies arrangements, which raises significant equity and cost/benefit issues. As a result, it is unlikely that this research would, or could, ever be funded. It should be noted that this research will not reduce the costs to fishers or increase operational efficiency within the fishery. It would rather result in a more detailed regulatory environment aimed at fine scale avoidance of interactions with a range of marine creatures.

Regulatory burden

This option presents the highest regulatory costs under the RBM framework of the options being considered, though the costs would only apply to a small number of businesses. The compliance cost has been calculated at $176 000 per annum. There are also substantial regulatory costs that are not captured by the RBM, in particular through the imposition of levies to cost recover the research programme. Importantly, these levies would be borne by the entire fleet exploiting the SPF, not just those vessels over 130 meters.

The number of businesses affected by the increased fisheries management actions has been calculated based on what is known of the number of statutory fishing right holders that operate in fisheries that may be able (physically, economically and taking into account target species) to accommodate fishing vessels greater than 130 metres in length, and assuming that not all businesses in a fishery could viably scale up their operations to such an extent (nor historically have tried to do so). Costs would be expected to include preparing applications and providing additional information (changes to vessel management plans etc.) to meet increased conditions on their fishing proposal. To a lesser extent there may be some additional costs for all operators in the fishery if mitigation measures developed for vessels over 130 metres are deemed to be applicable to all vessels (for example new mammal excluder devices that require crew training and capital expenditure). These are not included in this analysis.

There may be further direct financial costs to a business seeking to use a vessel over 130 metres in length, due to changes in compliance conditions on their operation. These costs are generally recovered through levies and permit fees and so fall outside the current RBM framework.

This option does not impose any regulatory burden on individuals or community organisations.

Table 2: Average Annual Compliance Costs (Option 3)

Costs ($m)	**Business**	**Community Organisations**	**Individuals**	**Total Cost**
Total by Sector	0.176	0	0	0.176

Proposal is cost neutral? □ yes ☑ no
Proposal is deregulatory □ yes ☑ no

Table 3: Cost offset

OBPR Reference Number: 16908
Name of proposal: Reducing regulation of defined risk stock and pet foods
Balance of cost offsets: $7.624

Cost offset ($m)	**Business**	**Community Organisations**	**Individuals**	**Total by Source**
Agency	0	n/a	n/a	0
Within portfolio	-0.176	n/a	n/a	-0.176
Outside portfolio	0	n/a	n/a	0
Total by Sector	-0.176	n/a	n/a	-0.176

5.3 Prohibit super trawlers

The Expert Panel found that considerable uncertainty existed about direct interactions with protected species and the potential for localised depletion to result in adverse environmental impacts on some protected species. A continuation of the prohibition on this class of vessel would take a conservative approach to this uncertainty. The current fisheries management regime aims to use the precautionary principle and the principle of ecologically sustainable development to avoid, wherever practicable, serious or irreversible damage to the environment. Regulation of specific fishing activities for the purposes of conserving the marine environment is within existing fisheries legislation.

This option is relatively simple and a clear response to the considerable remaining uncertainty about the impacts an unprecedented increase in the scale of commercial fishing activities might have on the Commonwealth marine environment. It would also implement the intention stated by the Prime Minister in March 2014, and the government in December 2014 to permanently ban super trawlers from the Australian fishing zone.

The prohibition would be implemented through regulations made under section 14 of the *Fisheries Management Act 1991*. Implementation of this option would need to consider the message being delivered around the Expert Panel report. As this action goes beyond the advice of the Expert Panel, which does not explicitly recommend a permanent ban, it could suggest that the management approaches the report suggests are not certain enough in terms of the cost and benefit of implementing them or are not acceptable in light of the high level of uncertainty that still remains and the unlikelihood that the necessary research could be funded to reduce this uncertainty.

There would be little or no cost to government of monitoring compliance with the prohibition; the nature of current monitoring and regulation of fishing activities means that an operator would be extremely unlikely to be able to use a prohibited vessel without the knowledge of the regulator (AFMA), even without any additional monitoring.

Estimated impact

Prohibiting the use of super trawlers based on the proposed definition would in the short term have no impact on any business as none are operating such a vessel. In the long term it would only affect a small number of businesses–specifically, those for which it might prospectively be considered viable to use a vessel over 130 metres in length overall to fish for their allocated quota. There are a very limited number of vessels of this size worldwide (estimated at less than

10), and a limited number of Australian fisheries where it might be considered economical to use them. In general, the tonnages available in Australian fisheries are not conducive to the use of such large boats which normally operate in fisheries with allowable catches factors of ten higher than those available in Australia.

A prohibition on vessels over 130 metres in length would not have an even effect across all Australian fisheries. It would only affect fisheries where a vessel this size is an economically efficient way to access the fisheries resource. Vessels of this size normally operate in trawl fisheries targeting low value, high volume species and where port or market access is more limited. A prohibition of the largest vessels by defining super trawlers as greater than 130 metres overall would not necessarily prevent a fishery from being economically viable, because vessels of smaller length could be used to catch the same level of quota. However, it may constrain some future development of fisheries insofar as it would affect the availability of more efficient means of fishing.

This option would likely be seen by the public as the government taking decisive action in fisheries management to address super trawlers. Where concerns are related to the fishing of forage fish species in general, there could be some dissatisfaction if increased business confidence, utilisation of the resource with smaller vessels and investment in research led to higher total allowable catch levels being set. Total allowable catch levels would not be set greater than that considered ecologically sustainable for the fishery based on the best scientific information available, as is consistent with other Commonwealth managed fisheries.

Under a prohibition of vessels over 130 metres in length overall, there could also be some public campaigns or public dissatisfaction that a prohibition does not go far enough, and attention could be turned to more general application of the expert panel report or to a prohibition of the activities described in the second declaration (down to 1 600 tonnes storage capacity, which is closer to vessels that have operated in Australia in the past). However, the available evidence does not support the banning of smaller vessels.

A prohibition may have the effect of constraining future development of fisheries. Banning large vessels removes the option for businesses operating in Australian fisheries to engage and charter these vessels. In Australia, the volume of quota available for operators to fish is generally not conducive to the year-round use of larger fishing vessels and operators tend to lease these vessels so as to save on costs of purchasing and maintaining them. Vessels of these sizes tend to have some advantages for catching lower value but higher volume target stocks. They also provide benefits of being better suited to sustaining crew for longer periods at sea and safely operating in rough offshore sea conditions. However, Australia's small pelagic fisheries are relatively small by international standards and because the proposed definition only targets a small group of very large vessels, the effect of the prohibition on prospective development is likely to be minimal. For example, the current total quota allocation for all rights holders in the fishery and four target species in the eastern and western zones is around 35 000 tonnes and the *Abel Tasman* reportedly had on-board processing facility and storage capacity for fish and/or fish products of approximately 4 500 tonnes.

Vessels under 130 metres, including vessels in the 100 to 110 metre range, have been used in Australian and New Zealand fisheries (extensively) in the past without evidence to suggest significant adverse impacts on the marine environment that cannot be mitigated under current management arrangements. Furthermore, following the government's announcement on 24 December 2015 that they would move to ban vessels over 130 metres from the Australian

Fishing Zone, Seafish Tasmania announced that they would be using a 95 metre vessel (the *Geelong Star*) to fish their quota during the 2015 season. This indicates that businesses are able to work within this limit and are willing to invest in the SPF if the government can provide sufficient business certainty.

Regulatory burden

This course of action would not present additional direct compliance costs on Australian businesses, individuals or community groups. A clear and legally enforceable ban on vessels over 130 metres is easily understood and any costs incurred by businesses who were prosecuted or fined for using a vessel over 130 metres are excluded from the Regulation Burden measurement framework. The existing 'Boat Nomination' form that must be submitted to the regulator already requires a business to specify the length and fishing method of the boat being nominated to a fishing concession.

Table 4: Average Annual Compliance Costs (from Business as usual)

Costs ($m)	**Business**	**Community Organisations**	**Individuals**	**Total Cost**
Total by Sector	$0	$0	$0	$0

Proposal is cost neutral? N/A
Proposal is deregulatory N/A
Balance of cost offsets N/A

6. Consultation

The issues explored in this Regulatory Impact Statement have attracted significant and prolonged media attention and public debate and consultation has been undertaken on a number of occasions. While these consultation processes have looked to answer specific questions, many of the submissions have been of a general nature and have provided a wide range of views on the use of super trawlers generally in Australian waters. Throughout this consultation a range of options were canvassed with stakeholders, including the potential to prohibit very large vessels from Australian fisheries.

Generally, stakeholders opposed to the operation a very large factory-freezer trawl vessel in the SPF outlined a range of measures that would satisfy them to their operation. These measures often go above and beyond those recommended by the Expert Panel report and are not considered by the government to be the most cost-effective solution to removing the risk to the Commonwealth marine environment. Discussion with the conservation and recreational fishing sector has highlighted their in-principle agreement with a prohibition but their view that the definition of super trawler does not capture enough vessels and does not fully address their concerns. However, in the analysis of options it is considered that known evidence of the operation of vessels around 100 and 110 metres previously in Australian and New Zealand fisheries, under similar management settings, have not contributed to significant adverse impacts on the environment.

The commercial fishing sector in general has indicated their preference to manage vessels under current fisheries management settings and that it is important to recognise the introduction of new input controls on physical aspects of a vessel has the potential to create inefficiencies and new incentives for operators to circumvent the restrictions. However, they have indicated that the prohibition, as defined in this analysis, does not present major concerns to them in regards to limiting their capacity to economically access Australian fisheries.

Consultation undertaken

The Department of the Environment conducted a formal submission process during the development of both the first and second declaration under Part 15B of the EPBC Act, where affected parties were able to provide comments regarding the impact of the prohibitions being proposed in the SPF. While this technically referred to statutory fishing right holders in the SPF, many other stakeholders responded, commenting generally on whether super trawlers should be allowed in any Australian fishery.

AFMA has undertaken consultation presenting research and management approaches being considered for the SPF 2015-16 fishing season. This included a half-day recreational and conservation stakeholder forum held in Hobart in October 2014. AFMA also undertakes regular liaison meetings with representatives of the conservation and recreational sector. The most recent conservation liaison meeting was held in Canberra on 17 March 2015, at which the announced regulation of super trawlers and the proposed use of the 95 metre vessel, the *Geelong Star*, were discussed.

As part of existing fisheries management processes there are forums in which a range of stakeholders have input to the arrangements in any given fishery. For example, the South East

Management Advisory Committee (SEMAC) has government, commercial fishing industry, scientific, recreational fishing and conservation members and provides management advice to the regulator about the SPF and the Southern and Eastern Scalefish and Shark Fishery. The SPFRAG underpins this, providing scientific advice and recommendations to both the regulator and the South East Management Advisory Committee. Since the debate about the super trawler in 2012 the SEMAC and SPFRAG have been considering issues that have been raised as important by a number of stakeholders in the management of marine resources in the SPF. Consideration has particularly been given to the issue of localised depletion, including working towards an agreed definition and considering what type of management responses are appropriate.

The Expert Panel has undertaken significant consultation with government, industry, research, conservation and recreational fishing stakeholders in Hobart and in Canberra as part of its assessment and report process on the fishing activity it considered. The terms of reference specifically required the Expert Panel to *"consult with and seek submissions from experts in relevant scientific disciplines where the expert panel believes this is necessary to clarify areas of uncertainty about the environmental impacts of the DCFA"*(Department of the Environment 2014). The Expert Panel's final report was informed by input from experts in relevant scientific and operational disciplines and the broader community of stakeholders. The Expert Panel sourced information and advice through:

- substantive submissions by affected parties to the interim declaration
- nomination, by those who made submissions, of relevant experts with whom the panel should consult
- face-to-face meetings with experts and the agreed written summaries of those meetings
- invited submissions
- responses to specific requests for information and assistance
- literature collated and provided to the panel upon commencement of its assessment by the secretariat, identified by panel members, recommended by experts and identified by reviews commissioned by the panel
- information and research arising from reviews and analyses commissioned by or undertaken on behalf of the panel
- consultation meetings with stakeholders from Australian government agencies, the commercial fishing industry, fisheries resource and management advisory bodies, state government agencies, recreational fishing groups, conservation groups, the scientific community and the indigenous community
- attendance at the Technical Workshop and Stakeholder Forum on Small Pelagic Fisheries, 14-18 July 2014 in Adelaide.

On 24 December 2014, the government announced its intention to prohibit the operation in the Australian Fishing Zone of all fishing vessels over 130 metres. This decision has been welcomed by the fishing industry including the previous proponents of the super trawler as a valuable step forward. Those proponents are now bringing a mid-water trawler to the fishery measuring 95 metres in length. Most environmental non-government agencies have not commented on the decision and at least one Tasmanian-based group has been critical and have indicated an opposition to all large fishing vessels with on-board processing. Certain groups representing recreational fishers have indicated that they remain concerned about the potential for localised

depletion impacting on game fish and for the ongoing viability of certain small pelagic fish stocks.

7. Recommended option

The three policy options considered in this Regulation Impact Statement have been analysed in their estimated ability to address the identified problem, that is, the government has been provided with an independent scientific report (Expert Panel) that identifies there is considerable uncertainty remaining about the potential for adverse environmental impacts from an unprecedented increase in the scale of commercial fishing activities (i.e. vessels greater than 130 meters in length) that the operation of a super trawler in Commonwealth fisheries would pose. Options one and three do not present any savings or increases that can be quantified under the RBM framework while option two presents an estimated increase in regulatory burden for businesses. However, under both options one and two, there are significant regulatory costs that are not captured by the RBM.

Option one, taking no government intervention, does not respond adequately to the findings of the Expert Panel that draws on and presents a substantial, comprehensive and credible review of related research and management information. This includes research from the SPF, other Australian and overseas fisheries, and the related ecosystems and species, in particular protected species. Given the first prohibition was made pending receipt of expert advice from the Expert Panel it is unclear why the advice of the panel should not be taken into account in an appropriate and cost effective way.

Option one would also do little to address the remaining gap between community concerns about super trawlers and the need to provide business and investment certainty in relation to the ongoing access of large, and often more efficient, fishing vessels to undertake fishing activities in Australian fisheries. This would likely result in continuing under-utilisation of fisheries resources, particularly in the SPF. Option one would likely have little negative impact on the existing management arrangements, but would also not bolster further investment in research.

Option two works within existing fisheries management practices to reduce the risk posed by a super trawler to the Commonwealth marine environment and address the advice of the Expert Panel. It also provides the most flexibility for business in the type of input mix they can use to achieve the most efficient utilisation of the resource. However, option two would result in direct compliance costs for any business seeking to use a vessel over 130 metres in Commonwealth waters and for all participants in the SPF, noting that the majority of these costs are in the form of levies to pay for research and are therefore, not captured by the RBM. Analysis suggests these additional costs would be substantial for industry and could likely result in the closure of fisheries such as the SPF due to the inability of the regulator to cost recover such amounts, even with greater utilisation of the fisheries resource than occurs in the SPF.

Furthermore, it is highly unlikely that the money could be raised to pay for the research, especially in an environment where business is underutilising their quota. The cost of investing in this research would likely greatly outweigh the economic benefit of using fishing vessels larger than 130 metres and the costs would be shared across the entire fishing fleet in the SPF regardless of their size, which raises significant equity and cost/benefit issues.

By prohibiting super trawlers as defined, option three would avoid the specific risks and uncertainty of impacts to the environment outlined in the Expert Panel report. Option three would be a departure from the focus on output controls used in most Commonwealth fisheries, yet the certainty provided would likely promote investment in utilisation of fisheries resources in the SPF, increasing the amount of research undertaken and raising the baseline scientific knowledge of fish stocks. It is within the intent of the current legislation that fishing activities may be regulated for the purpose of conserving the marine environment and restrictions on the type of input mix an industry can use, such as limiting the size of a vessel, are frequently imposed by regulators to ensure that industries through their operation do not lead to spillover costs on the general community.

On balance, option three presents the most favourable outcomes. In line with the application of the precautionary principle under current fisheries management objectives, it takes action to avoid the potential for serious or irreversible damage to the environment presented by the Expert Panel. It also addresses to some extent community expectations, whilst materially increasing business and investment certainty. It avoids potentially onerous costs to government and industry to fund research and administer complex regulations, whilst protecting industry from having to understand and comply with complex regulations. The prohibition does not impact on any current operators and only impacts operators who may seek to use a vessel that is captured by the prohibition, which is very unlikely to occur.

The government announced on 24 December 2014 that fishing vessels greater than 130 metres in length will be prohibited from fishing in the Australian fishing zone. This announcement was preceded by a number of briefings, particularly in regards to the findings of the Expert Panel. At this time, the government also had available to them this Regulation Impact Statement as considered for Early Assessment by the Office of Best Practice Regulation. This analysis has now been updated for final assessment, and will be appropriate to accompany the briefing available to the Parliamentary Secretary to the Minister for Agriculture prior to making the final decision to regulate vessels in the Australian fishing zone under fisheries legislation.

Regardless of the option chosen, there will be a short and long term need to improve the community's understanding of the strength of Australia's fisheries management arrangements. A communications strategy is being developed by the Department of Agriculture, which is relevant for all three policy options considered in this analysis. The intent of the communication strategy is to increase confidence in Australia's fisheries management practices. It considers the various opportunities for communicating with and educating the broader public about the management and sustainability of Australian fisheries.

8. Implementation and evaluation

This Regulation Impact Statement has been available at each major decision point through the making of a government decision on this issue. This includes a version which had undergone early assessment by the Office of Best Practice Regulation being available to the government prior to announcing fishing vessels greater than 130 metres in length will be prohibited from Australian fisheries. A version undergone first pass final assessment was available, along with the drafted regulation under the *Fisheries Management Act 1991*, to the Parliamentary Secretary to the Minister for Agriculture to allow a decision to be taken on the most appropriate course of action.

The final Regulation Impact Statement will be presented at an Executive Council meeting for sign-off by the Governor General. The regulation would be then introduced to Parliament, where it could be subject to disallowance motions, before becoming law.

The Department of Agriculture would work with relevant agencies in ensuring drafting of the regulations are completed such that they can be introduced to Parliament prior to the temporary prohibition under Part 15B of the EPBC Act expiring on 24 April 2015. It would also be expected to be in place in advance of the 2015-2016 fishing season, which for most Commonwealth fisheries begins on 1 May 2015. Consultation on the drafting and implementation of any regulatory changes will include working within the Agriculture portfolio including AFMA.

With the introduction of any regulatory changes the department would also advise permit holders in Commonwealth fisheries in writing.

This decision may be revisited in the future if there is a substantial increase in the level of information available on the impacts of various fishing activities on the Commonwealth marine environment, which will be correlated somewhat with the future level of fishing activity, or significant changes to community expectations in relation to this issue. At this time it would be appropriate to evaluate the regulation in regards to any known environmental impacts of fishing activities by large vessels in Australian fisheries and the level of fishing activity occurring.

List of acronyms

ABARES	Australian Bureau of Agricultural Resource Economics and Sciences
AFMA	Australian Fisheries Management Authority
CSIRO	Commonwealth Scientific and Industrial Research Organisation
DCFA	Declared Commercial Fishing Activity
EBPC Act	Environment Protection and Biodiversity Conservation Act 1999
FRDC	Fisheries Research and Development Corporation
RBM	Regulatory Burden Measurement
SEMAC	South East Management Advisory Committee
SPF	Commonwealth Small Pelagic Fishery
SPFRAG	Small Pelagic Fishery Resource Assessment Group

References

ABARES 2012, *Advice Note 2012/13-2410: Considerations relevant to the making of a final declaration under Section 390SF of the EPBC Act,* The Australian Bureau of Agriculture and Resources Economics and Science, Canberra.

ABARES 2014, *Advice Note 2014/3015: Comments on economics of vessel size on small pelagic fishery performance,* The Australian Bureau of Agriculture and Resources Economics and Science, Canberra.

AFMA 2007, *Benefits and Costs of E-Monitoring Video Technologies for Commonwealth Fisheries,* Australian Fisheries Management Authority, Canberra.

AFMA 2008, *Small Pelagic Fishery Harvest Strategy,* Australian Fisheries Management Authority, Canberra.

AFMA 2013, *Regulation Impact Statement: Managing interactions with Australian Sea Lions in the Gillnet Hook and Trap Sector of the Southern and Eastern Scalefish and Shark Fishery*, Australian Fisheries Management Authority, Canberra.

AFMA 2013, *Regulation Impact Statement: Managing interactions with dolphins in the Gillnet Hook and Trap Sector of the Southern and Eastern Scalefish and Shark Fishery*, Australian Fisheries Management Authority, Canberra.

AFMA 2014, Small Pelagic Fishery Total Allowable Catches for the 2014-15 season, Australian Fisheries Management Authority, Canberra.

COAG 1992, *Intergovernmental Agreement on the Environment,* Council of Australian Government's, Brisbane.

Commonwealth of Australia, *Parliamentary debates: House of Representatives: official Hansard, 4 Mar. 2014, p1534*, Canberra.

Congdon, B; McDuie, F; Miller, M; Weeks, S & Steinberg, C 2014, *Critical seabird foraging locations and trophic relationship for the Great Barrier Reef,* James Cook University, Townsville.

Department of the Environment 2012, *Terms of Reference for the Expert Panel on a Declared Commercial Fishing Activity*, Department of the Environment, Canberra.

Expert Panel on a Declared Commercial Fishing Activity 2014, *Report of the Expert Panel on a Declared Commercial Fishing Activity*, Department of the Environment, Canberra.

Goldsworthy, S; Kennedy, C; Shaughnessy, P; & Mackay, A 2014, *Monitoring of Seal Bay and other pinniped populations on Kangaroo Island,* South Australian Research & Development Institute, Adelaide.

Izzo, C; Gillanders, B & Ward, T 2009, *Movement patterns and stock structure of Australian sardine off South Australia and the East Coast,* South Australian Research & Development Institute, Adelaide.

OBPR, *Regulatory Burden Framework*, Office of Best Practice Regulation, Canberra.

Colbeck, R 2014, *Supertrawlers to be banned from Australian waters,* media release, Parliamentary Secretary to the Minister for Agriculture, Canberra, 24 Dec. 2014.

Ross, M 2012, 'Super trawler: destructive or sustainable?' *ABC News*, 15 Aug. 2012.

South East Trawl Fishery Association 2009, *Trials of Seal Excluder Devices (SEDs) on a South East Trawl Fishery Wet Boat*, Natural Heritage Trust, Canber