

FISHERIES COUNCIL OF SOUTH AUSTRALIA

OVERVIEW OF THE FISHERIES MANAGEMENT PLAN PROCESS

BACKGROUND

All of South Australia's major fisheries have a Management Plan in place (established under the previous *Fisheries Act 1982*) that sets out the broad structure and nature of the fishery, the relevant management arrangements and the objectives and performance indicators associated with management. In most instances these plans have been reviewed at least once since their introduction in the late 1990s.

The Spencer Gulf Prawn, the Gulf St Vincent Prawn, the Southern Zone Rock Lobster and the Northern Zone Rock Lobster Fishery Management Plans have all been reviewed recently with new plans becoming effective from August 2007.

The plans have all been produced in consultation with industry and developed through the former Fisheries Management Committees.

The Fisheries Council now has responsibility for preparing and conducting reviews of management plans, upon the request of the Minister.

Part 5 of the *Fisheries Management Act 2007* details the legislative requirements relating to management plans for commercial fishing, recreational fishing and aquatic reserves (see Attachment 1). (This Part does not apply to an Aboriginal traditional fishing management plan (Section 60)).

PRIORITIES FOR THE PREPARATION OF MANAGEMENT PLANS

The Minister for Agriculture, Food and Fisheries has requested the Council, pursuant to section 42 of the Act, to commence preparation of plans for the Abalone, Blue Crab and Charter Boat fisheries. These plans are due for completion in December 2009. Priorities for other fisheries will be determined by the Minister.

SUMMARY OF STEPS FOR PREPARATION OF COMMERCIAL FISHERY MANAGEMENT PLANS

The following is a summary of the major steps in the preparation of commercial fishery management plans.

1. Minister directs Fisheries Council to prepare management plan for a fishery.
 2. Fisheries Council asks PIRSA and the recognised industry association to work together to prepare draft management plan for its consideration.
 3. PIRSA Fisheries conducts an ESD risk assessment process, involving industry workshops and broader stakeholder workshops. This process identifies the issues to be address in the draft management plan. A risk assessment report is produced for the Fisheries Council.
 4. PIRSA Fisheries and industry association prepare a draft plan for Fisheries Council consideration. (Industry association represents and engages industry.)
 5. Fisheries Council considers draft. It may choose to go back to PIRSA Fisheries and/or industry association for further iterations.
 6. Fisheries Council releases draft management plan for statutory consultation process. Fisheries Council secretariat conducts public consultation process.
 7. Fisheries Council finalises a draft management plan following public consultation. They may choose to re-engage with PIRSA Fisheries, the industry association or other stakeholders in finalising the draft plan.
 8. Fisheries Council forwards plan to Minister for approval.
 9. Minister approves, approves with changes or sends back to the Fisheries Council for further consideration.
 10. Once approved, plan is tabled in Parliament for information.
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Note: There may be several iterations at any stage of the process whereby drafts go between two bodies several times.



Attachment 1

Part 5—Management plans for commercial fishing, recreational fishing and aquatic reserves

40—Interpretation

In this Part, unless the contrary intention appears—

- (a) a reference to an *aquatic reserve* includes a reference to waters, or land and waters, proposed to be constituted as an aquatic reserve;
- (b) a reference to a *draft management plan* includes a reference to a draft amendment to, or the draft revocation of, a management plan previously made under this Part;
- (c) a reference to a *fishery* includes a reference to a class of fishing activities proposed to be constituted as a fishery;
- (d) a reference to a *management plan* includes a reference to an amendment to, or the revocation of, a management plan previously made under this Part.

41—Application of Part

This Part does not apply to an aboriginal traditional fishing management plan.

42—Duty of Council to prepare management plans

The Council must, if required by the Minister, prepare management plans for the following:

- (a) classes of commercial fishing activities;
- (b) classes of recreational fishing activities;
- (c) aquatic reserves.

43—General nature and content of management plans

- (1) A management plan must—
 - (a) be consistent with the objects of this Act; and
 - (b) be consistent with any relevant aboriginal traditional fishing management plan; and
 - (c) set out the management objectives of the plan and strategies for achieving those objectives; and
 - (d) identify research needs and priorities; and
 - (e) set out the resources required to implement the plan; and
 - (f) take into account—
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- (i) the advice of any committee of the Council established for that purpose by the Council; and
 - (ii) the provisions of the Planning Strategy and any relevant Development Plan under the *Development Act 1993*; and
 - (iii) the provisions of any document prescribed for the purposes of this paragraph (insofar as is relevant to the operation of this Act and reasonably practicable).
 - (2) A management plan for a fishery must—
 - (a) identify the fishery to which the plan relates; and
 - (b) describe the biological, economic and social characteristics of the fishery; and
 - (c) identify the impacts or potential impacts of the fishery on its associated ecosystem or ecosystems, including impacts on non-target species of fish or other aquatic resources; and
 - (d) identify any ecological factors that could have an impact on the performance of the fishery; and
 - (e) assess the risks (if any) identified under paragraphs (c) and (d) to determine the most serious risks; and
 - (f) set out strategies for addressing those risks; and
 - (g) set out methods for monitoring the performance of the fishery and the effectiveness of the plan, including performance indicators, trigger points for review or action and progress reporting; and
 - (h) specify the share of aquatic resources to be allocated to each fishing sector under the plan; and
 - (i) prescribe a method, or establish an open and transparent process for determining the method, for adjusting allocations of aquatic resources between the different fishing sectors during the term of the plan; and
 - (j) provide that compensation will be paid to persons whose licences or licence entitlements are compulsorily acquired in order to reduce the share of aquatic resources allocated to the commercial fishing sector and increase the share allocated to another sector.
 - (3) In determining the share of aquatic resources to be allocated to a particular fishing sector under the first management plan for an existing fishery, the share of aquatic resources to which that fishing sector had access at the time the Minister requested the Council to prepare the plan (based on the most recent information available to the Minister) must be taken into account.
 - (4) A management plan may relate to more than 1 class of fishing activity or more than 1 aquatic reserve.
 - (5) In this section—

existing fishery means a fishery constituted under this Act by virtue of clause 5 of Schedule 1.
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44—Procedure for preparing management plans

- (1) The Council must, in relation to a proposal to prepare a management plan—
 - (a) by notice published in a newspaper circulating generally within the State, give notice of the intention to prepare the management plan with a description of the general purpose of the proposed management plan; and
 - (b) prepare a draft of the management plan; and
 - (c) seek the views of a representative of all signatories to any indigenous land use agreement that is in force in relation to any of the area to which the plan relates in relation to the draft.
 - (2) The Council must, after preparing a draft management plan, prepare a report containing—
 - (a) an explanation of the purpose and effect of the draft management plan; and
 - (b) a summary of the background and issues relevant to the draft management plan and of the analysis and reasoning applied in formulating the plan.
 - (3) The Council must, after preparing the draft management plan and related report—
 - (a) refer the plan and report to—
 - (i) the Minister; and
 - (ii) the representative of all signatories to any indigenous land use agreement that is in force in relation to any area to which the plan relates; and
 - (iii) any advisory committee whose area of responsibility is affected by the plan; and
 - (iv) any public authority whose area of responsibility is, in the opinion of the Council, particularly affected by the plan; and
 - (b) cause an advertisement to be published in a newspaper circulating generally in the State—
 - (i) giving notice of places at which the draft management plan and report (or copies of the draft management plan and report) are to be available for inspection and, if copies are to be available for purchase, places at which copies may be purchased; and
 - (ii) inviting interested persons to make written submissions in relation to the draft management plan within a period specified in the advertisement (being not less than 2 months from the date of publication of the advertisement); and
 - (iii) stating that the submissions will be available for inspection as provided by subsection (5); and
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- (iv) appointing a place and time at which a public hearing will be commenced by the Council in which interested persons may appear to be heard in relation to the draft management plan and the submissions.
- (4) However, the Council may, in relation to a particular draft management plan, with the approval of the Minister, dispense with the requirement for the holding of a public hearing if satisfied that it is not warranted in the circumstances.
- (5) If written submissions are made in response to an advertisement published under subsection (3)(b), a copy of those submissions must be made available for inspection by interested persons during ordinary business hours at the principal office of the Council from the end of the period specified for the making of submissions until the Council reports to the Minister on the draft management plan under this section.
- (6) At the time and place appointed for a public hearing, interested persons may appear and make submissions to the Council that are relevant to the draft management plan or the written submissions relating to the draft management plan.
- (7) The Council must consult with and consider the advice of the persons and bodies referred to in subsection (3)(a) on—
 - (a) the provisions of the draft management plan; and
 - (b) all matters raised as a result of public consultation under this section; and
 - (c) any alterations that the Council proposes should be made to the draft management plan.
- (8) The Council must then report to the Minister and the Minister may, after taking into account the report and recommendations of the Council on the matter—
 - (a) adopt the draft management plan; or
 - (b) alter the draft management plan and adopt the draft management plan as altered; or
 - (c) decline to adopt the draft management plan.
- (9) A management plan has no force or effect until adopted by the Minister.
- (10) On adopting a draft management plan, the Minister must cause notice of that fact to be published in the Gazette.
- (11) The Minister must, in the Gazette notice adopting a management plan, fix a date on which the plan will take effect.
- (12) A failure of the Council or the Minister to comply with a requirement of this section does not affect the validity of a management plan.

45—Tabling of management plans

The Minister must, within 12 sitting days after adopting a management plan, cause copies of the plan to be laid before both Houses of Parliament.

46—Procedure for making certain amendments to management plans

- (1) The Minister may, by notice in the Gazette, amend a management plan—
 - (a) to correct an error; or
 - (b) to make a change of form (not involving a change of substance) in the plan; or
 - (c) if the Governor is satisfied that the amendment would not substantially alter the plan; or
 - (d) if the plan or the regulations provide that a change of a specified kind may be made by amendment under this section—to make a change of that kind.
- (2) An amendment under this section takes effect on the day fixed in the Gazette notice of the amendment.

47—Duration of management plans

- (1) A management plan for a developmental fishery or part of such a fishery expires—
 - (a) on the third anniversary of its commencement; or
 - (b) on the expiry date specified in the plan,whichever is the earlier.
- (2) Subject to this section, any other management plan expires—
 - (a) on the tenth anniversary of its commencement; or
 - (b) on the expiry date specified in the plan,whichever is the earlier.
- (3) If—
 - (a) a management plan is due to expire in 6 months or less; and
 - (b) a draft management plan to replace the existing plan has not yet been adopted by the Minister under this Part,the Minister must, by notice in the Gazette published before the expiry of the plan, extend the term of the plan for a period specified in the notice (being a period of not less than 12 months and not more than 5 years).
- (4) The Minister may not extend the term of a management plan under subsection (3) more than once.
- (5) If the Minister has extended the term of an existing plan under subsection (3), the Minister must ensure that, during the extended term, he or she adopts a replacement management plan to come into effect on the expiry of the existing plan.

48—Availability and evidence of management plans

- (1) Copies of each management plan must be kept available for inspection and purchase by the public during ordinary office hours at a place or places determined by the Minister.
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- (2) In legal proceedings, evidence of the contents of a management plan may be given by production of a document certified by the Minister as a true copy of the plan.
- (3) An apparently genuine document purporting to be a certificate of the Minister will be accepted as such in the absence of proof to the contrary.

49—Review of management plans

- (1) The Council may review a management plan at any time.
- (2) The Council must, as soon as practicable after the fifth anniversary of the commencement of a management plan, conduct a comprehensive review of the plan for the purpose of determining whether the plan should be amended, replaced or reinstated without amendment.
- (3) The Council must submit a report on the outcome of a review under this section to the Minister within 12 months after the commencement of the review.
- (4) The Minister must, within 12 sitting days after receiving a report under this section, cause copies of the report to be laid before both Houses of Parliament.
- (5) If a report under this section recommends that a management plan should be reinstated without amendment on its expiry, the plan may be so reinstated without following the procedures set out in section 44.
- (6) If a plan is to be reinstated under this section, the Minister must—
 - (a) adopt the plan; and
 - (b) cause notice of that fact to be published in the Gazette; and
 - (c) in the Gazette notice adopting the plan, fix a date on which the plan will take effect.

50—Implementation of management plans

- (1) The Minister must manage commercial and recreational fishing activities and aquatic reserves in accordance with any relevant management plan adopted by the Minister under this Part.
 - (2) This section does not affect the validity of an act or decision done or made under a provision of this Act (or any regulations under this Act).
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