



Australian Government

Department of Finance and Deregulation Office of Best Practice Regulation

Reference: 15298
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Dr Nick Rayns
Executive Manager Fisheries Management Branch
Australian Fisheries Management Authority

Sent by email

Dear Dr Rayns

Final Details-stage Regulation Impact Statement – Managing interactions with dolphins in the Gillnet Hook and Trap sector of the Southern and Eastern Scalefish and Shark Fishery

Thank you for forwarding the Regulation Impact Statement (RIS) for the above proposal for final assessment by the Office of Best Practice Regulation (OBPR) on 11 September. I note that you have formally certified the details-stage RIS as required by the best practice regulation requirements.

The OBPR assesses details-stage RISs for consistency and adequacy – consistency relates to following the prescribed process and adequacy relates to the quality of the analysis. I note our comments of 9 September on the ‘first pass’ draft have been appropriately addressed, as you confirmed in your letter certifying the final version of the RIS.

I note the agency has been consistent with the RIS requirements, having twice provided a certified details-stage RIS (addressing all seven elements) to the OBPR for the two-pass assessment before the decision-maker considers the RIS.

I note that the details-stage RIS is adequate as it does not contain obvious errors and has a degree of detail and depth of analysis that is commensurate with the magnitude of the problem and the size of the potential impact of the proposal. The OBPR considers that the RIS is a category ‘D’ RIS, reflecting that the issue is of relatively minor significance in the broader economy.

The original measure proposed to be continued was in response to a high number of dolphin deaths attributable to gillnet fishing. The RIS considers three options: to do nothing; to allow industry to develop voluntary measures and self-regulate; or to take regulatory action.

The impact analysis was largely qualitative and found that ‘do nothing’ and ‘self regulation’ options were unlikely to achieve the Australian Fisheries Management Authority’s objective or sufficiently address the problem. The preferred regulatory option in the RIS was to

continue the existing closure (an area with a high risk of dolphin interactions) for 12 months pending the development and implementation of a formal Dolphin Management Strategy.

We note that as no decision has been previously announced an options-stage RIS was not required, and that this was flagged in the RIS.

The Government's *Best Practice Regulation Handbook* (June 2013), at paragraph 6.4, requires that for legislation which is tabled in the Parliament, a copy of the details-stage RIS must be included in the explanatory memorandum (for primary legislation) or the explanatory statement (for legislative instruments). Please ensure that your officers provide the OBPR with a copy of (or link to) the explanatory memorandum or explanatory statement when these are made public.

Additionally, the OBPR maintains a RIS website and the Government requires that details-stage RISs be posted as soon as possible after the regulatory decision is publicly announced. We would appreciate you advising us when a decision on this proposal is announced, and forwarding a final copy of the details stage RIS in *Microsoft Word .doc* format in a form meeting the Australian Government's *Web Content Accessibility Guidelines*. We suggest liaising with your web services team to ensure these guidelines are met. The OBPR should be consulted if the details-stage RIS is amended. It is the agency preparing the RIS, not the OBPR, which is responsible for the content of the published details-stage RIS.

The website provides a public comment facility on RISs posted on the site. The OBPR moderates this facility for offensive content but does not moderate debate.

Please retain this letter as a record of the OBPR's advice. Our reference number for this issue is 15298. If you have any further queries, please do not hesitate to contact me.

Yours sincerely

A handwritten signature in dark ink, appearing to be 'TS' followed by a long horizontal stroke.

Tony Simovski
A/g Deputy Executive Director
Office of Best Practice Regulation
13 September 2013