

**REPORT OF THE
MINISTERIAL ADVISORY GROUP
ON *AUSTRALIA'S OCEANS POLICY*
- *AN ISSUES PAPER***

JULY 1998

Preamble

Because the document *Australia's Oceans Policy - An Issues Paper* was developed in parallel with the March 1998 Report of the Ministerial Advisory Group on Oceans Policy (MAGOP), the Group met on 18 June to review the Issues Paper in the light of the MAGOP Report. Objectives of the meeting were to:

- provide recommendations on the presentation of the final policy document;
- identify areas in the Issues Paper that the Group considered needed amendment for the final policy document;
- identify gaps in the Issues Paper that needed to be addressed in the final policy document; and
- consider where any further specific actions could be added to the proposed responses.

This brief report describes the outcomes of that meeting. As noted in our March 1998 Report, the Advisory Group was chosen to represent sectoral views, and as a result there was not always agreement or commonality of views. This Report notes the divergence of members' views on issues where general agreement was not forthcoming.

Overall the Group considered the Issues Paper to be comprehensive in its coverage and were generally in agreement with many of the policy directions described, apart from institutional arrangements. No major gaps were identified, nor were there any particular areas considered to benefit from substantial expansion. Some additional actions, and rewording of some of the actions in the Issues Paper were identified. The Group considered it important that the actions be written to identify agencies responsible and general timelines to facilitate auditing of the final Policy. Most concerns with the Issues Paper were of a detailed nature. In a number of instances the Group considered presentation of issues in the March 1998 MAGOP Report to be superior.

This report is presented in two sections. The first covers general comments on the Issues Paper and changes that the Group considers need to be made in preparing the final policy document. The second section contains specific comments that are largely editorial in nature, though not trivial in terms of their intent.

1: GENERAL COMMENTS

FINAL POLICY FORMAT AND CONTENT

While the level of detail included in the document *Australia's Oceans Policy - An Issues Paper* is appropriate for a discussion paper, the final policy should be much more succinct. Background information and explanatory details should be clearly separated from the core policy elements.

A suggested structure for the final Policy is as follows:

- Brief identification of the principal drivers behind the Oceans Policy;
- Statement of the Vision and Goals;
- Enunciation of the Principles and major Actions related directly to the Goals; and
- Supporting background information (including the background to the Policy and the background information for each of the sectoral elements in Chapter 5 of the Issues Paper).

The principal drivers underlying the Oceans Policy include a range of opportunities and deficiencies, including:

- the need to implement the Law of the Sea Convention;
- the need for better knowledge to support management;
- the need to satisfy jurisdictional responsibilities;
- the need to coordinate and integrate planning and management and research;
- the need to promote interest in, and ownership of, our maritime estate; and
- the need to anticipate additional economic opportunities and environmental pressures.

This structure, by relating Principles and Actions directly to the Goals, would facilitate implementation and evaluation of policy initiatives and assist in identifying any gaps in responses. Inclusion of responsibilities for actions and implementation time-frames would further assist in auditing the final policy (particularly in the context of performance assessment and reporting) and in giving its implementation more credibility and a higher chance of success. The detail provided in some of the 'boxes' (for example, "Characteristics of Ecosystem-Based Oceans Planning and Management" on page 29) is consistent with this approach to facilitating auditing of the policy and its impacts.

Because readers of the policy will need to consider potential impacts of the policy on their particular interests, a sectoral analysis should be appended to the policy document. This could result in duplication of text, and perhaps a matrix could be used to illustrate actions in relation to each of the sectors.

The style, presentation and language of the final policy should be of a nature to make the document accessible to all Australians. Key terms, such as ecosystem-based management, should be explained in lay terms. Many members expressed the importance of this concept

and, although attempts to make it more acceptable are laudable, the expression itself should remain central to the Policy.

LINKAGES

The connections within and between sections of the Issues Paper are not clearly elucidated. Within sections, some of the major issues and needs identified within the Backgrounds are not addressed by actions within the Response section. Details of these are noted in Section 2 of this Report.

A small number of major themes recur throughout the Issues Paper, but the linkages between them are not obvious from reading the document. Relating the Principles and Actions to the Goals would convey the thematic connections and more explicit cross-referencing between sections would demonstrate a greater degree of integration, coordination and cohesion that the policy strives to achieve.

VISION AND GOALS (Page 3)

The Group holds substantial reservations about the completeness and content of the Vision and Goals. Additional goals to address the following points are recommended:

- discharge of Australia's international obligations to reflect the imperative of the Law of the Sea Convention and other international instruments;
- integration of planning and management arrangements;
- promotion of public awareness and understanding; and
- ecosystem-based management (in appropriate language such as "to maintain ecosystem health by managing at appropriate scales and monitoring long-term trends").

Some members of the Advisory Group expressed concern over the anthropocentric / utilitarian nature of the vision and sought inclusion of the intrinsic value of the oceans as a fundamental element of the vision. Related to this concern was uncertainty over the interpretation of 'ecosystem health'.

There was greater agreement to the vision as written when the vision was read in conjunction with the Goals, provided these were modified and expanded. Recommended changes, as well as the additions outlined above, include:

- separation of the phrase "and ensure that oceans uses are ecologically sustainable" from the second goal so that this goal focuses exclusively on non-economic values; and
- revision of the fourth goal to reflect a need for participatory involvement of the community and to reflect the diversity of community interests including social, cultural and spiritual ones.

PRINCIPLES FOR ECOLOGICALLY SUSTAINABLE OCEAN USE (Section 2)

Most of the discussion on this section of the Issues Paper related to specific comments of both editorial and philosophical natures. Recommended changes are detailed in Section 2 of this report. The Group considers that the Principles as stated in the March 1998 MAGOP Report and their inherent logic and presentation are superior to the Issues Paper.

OPTIONS FOR OCEAN MANAGEMENT - INSTITUTIONAL ARRANGEMENTS (Section 3.2)

The Group is aware of the reasons behind the cursory treatment of Institutional Arrangements in the Oceans Policy Issues Paper and of the current processes to develop options of oceans management for the final policy.

The Group considers that the four options presented in the March 1998 MAGOP Report (pp 8-15) warrant consideration by the Commonwealth-State Senior Officials Working Group on Institutional Arrangements for Oceans Policy ('the Beale Group'). To this end the Group elected four members to make a presentation at the 7 July meeting of 'the Beale Group' to cover the range of views on this matter, including the models proposed in the MAGOP Report.

To effectively address land-sourced pollution issues, any revised Institutional Arrangements should take into account the need to improve planning and management linkages between marine and terrestrial areas, building on existing Commonwealth-State commitments and actions.

Discussions on Institutional Arrangements should explicitly consider responsibilities for performance assessment and reporting, with this being incorporated into the Terms of Reference for the determined mechanism. Because of the linkages between performance assessment and reporting and Information for Management (Section 5.3.3), responsibilities in the latter area should also be considered in the context of Institutional Arrangements.

MARINE INDUSTRY, SCIENCE AND TECHNOLOGY (Section 4)

Because the Marine Science & Technology Plan had been released only recently, members of the Advisory Group did not have time to formulate detailed comments on this area of the Issues Paper. The major concerns expressed by members related to the lack of identified resources for implementation of the Plan. Some members highlighted an apparent bias towards utilitarian aspects of science and technology with insufficient attention to science in support of conservation and protection.

PRINCIPAL ACTIONS (Section 5)

A shift towards ecosystem-based management is a fundamental change advocated by the Oceans Policy, yet there is little in the Issues Paper to describe how this will be achieved and the impacts such a shift could have on the major sectors. The final policy should outline the practical implications of ecosystem-based management for each of the sectors.

The language used in many of the actions is regarded as being patronising and ineffectual. Specifically, the use of the word “encourage” should be replaced by stronger, more active, words such as “facilitate” and “involve” to convey commitment, particularly in the context of community participation in planning and management.

The Group considers it vital that actions receive adequate resourcing and that responsibilities, time-frames and mechanisms for implementing these be identified for each of the principal actions.

2: SPECIFIC COMMENTS

This section details specific comments on Sections of the Issues Paper. Many of the comments are of a minor editorial nature, although this should not be construed as the comments being considered trivial.

The Advisory Group recommends that all of the following comments be considered in the writing of the final Oceans Policy.

BACKGROUND (Section 1)

- In the Marine Industries Section (1.7), the employment statistics for the fishing industry should identify and separate those employed in the commercial sector (19,000) and those in the recreational sector (approximately 80,000).

PRINCIPLES FOR ECOLOGICALLY SUSTAINABLE OCEAN USE (Section 2)

Recommended changes include:

- Prominence be given to the wording of UNCLOS as a major imperative of the Oceans Policy.
- The section on Governance (2.1.3) should make reference to the Offshore Constitutional Settlement.
- The dot points under Application of the Precautionary Principle (2.1.5) should be re-ordered, with the third dot point transposed with the first.¹
- The third dot point under Application of the Precautionary Principle (2.1.5) should be used to represent the Precautionary Principle on page 22, rather than the first dot point as currently written.²
- On page 22 (last dash point) and throughout the Issues Paper, the word “encourage” should be replaced by a stronger, more direct commitment by using words such as “promote”, “facilitate” or “involve”.
- The box ‘Management for Multiple Ocean Use’ should also cover planning.
- The box ‘Characteristics of Ecosystem-Based Oceans Planning and Management’ needs a preamble to explain the jargon in lay terms. In point 6, the reference to “the time scale of a human generation” should be deleted as this is not an agreed qualification to the

¹ This was not a unanimous view. Some members supported the ordering of points on the Precautionary Principle as written in the Issues Paper and were opposed to any change.

² This was not a unanimous view. Some members considered the existing description of the Precautionary Principle on page 22 to be appropriate.

Precautionary Principle. The title for point 7 should be changed - human activity is important, but it is not necessarily fundamental.

INTEGRATED OCEANS PLANNING AND MANAGEMENT (Section 3)

- The first sentence of the last paragraph of section 3.1 (The Need for Integrated Oceans Planning and Management Arrangements) is unclear.

PRINCIPAL ACTIONS (Section 5)

Section 5.1.1 (Conservation of Marine Biological Diversity)

- This Section does not adequately emphasise the protection of habitats as a key requirement for the maintenance of biodiversity.
- Accelerated development of the National Representative System of Marine Protected Areas is repeated, appearing on both pages 38 and 39.
- Reference to sustainability indicators should be made in this Section.
- The Section should elaborate on how ecosystem-based management could be incorporated within the operations of the various sectors and the implications for sectors by shifting to an ecosystem approach to management.

Section 5.1.2 (Fisheries)

- Some members considered that a stronger emphasis be given to the urgent need for decisive action in response to the status of a number of Australian fish stocks. Particular emphasis should be given to the environmental impacts of trawling. A requirement for full environmental assessments of any new fisheries before opening was regarded as desirable by some members. Other members considered this Section to be balanced, with a number of the proposed actions already underway. Many members advocated greater attention to the recreational fishing sector, noting that for some species this sector is responsible for up to 90% of the catch. Recommendations for the recreational fishing sector in the March 1998 MAGOP Report should be included in the final policy, namely:

“A comprehensive national survey into recreational and sport fishing should be undertaken every five years for the next twenty-five years” (Recommendation #20).

“Options for management of the recreational and sport fishing sector should be developed and implemented. Recreational fisheries take should be integrated into fisheries management” (Recommendation #21).

“The impact and extent of the recreational bycatch should be assessed and if necessary methods to reduce it such as educational programmes should be initiated”

(Recommendation #27).

- The last dot point under the Recreational and Charter Fishing heading should be amended to read “Cost recovery and linking of recreational licence fees to resource management will be actively supported and promoted”.
- With regard to Economic/Regulatory Instruments, it was noted that reference to ITQs reflects one particular view, whereas their applicability to all fisheries management, particularly multi-species fisheries, is challenged by both fishers and the community.

Section 5.1.3 (Aquaculture)

- This section needs updating to reflect modern aquaculture objectives and practices. Reference to overseas work should broaden the scope of future aquacultural potential.
- Explicit attention should be drawn to the ‘double-edged sword’ nature of aquaculture, with the benefits being traded off with potential impacts on other industries.
- The first dot point response under ‘Ecologically Sustainable Aquaculture Practices’ should place aquaculture within the context of regional coastal and marine strategic planning for multiple use. The following recommendations from the March 1998 MAGOP Report are germane:

“Governments should designate and define as quickly as practical all possible areas that have aquaculture potential. The designation should be kept under review in the light of new developments. Assigning areas to aquaculture should not adversely impact access for other users” (Recommendation #32).

“Aquaculture development should not cause destruction of important habitat such as wetlands or mangroves” (Recommendation #33).

- In the same sub-section, the word “safe” is ambiguous and should be removed with reference to movement of fish species (fourth dot point).

Section 5.1.4 (Offshore Petroleum & Minerals)

- Most members considered that the wording of the Challenge should be changed, with “efficient and effective” replaced by “internationally competitive”. The term “ecologically sustainable” should be replaced with words to indicate that the industry will maintain high level of environmental standards rather than “remain ecologically sustainable.”³
- The Background of this section is structurally inconsistent with all other sections. The preface to the dot points in the Background “What is needed is:” should be replaced by “Important Aspects or Issues of the Industry are:”. The second dot point would be more logically placed in the Response section (of 5.1.8), rather than in the Background of the current section. The third dot point reads as if environmental assessments currently aren’t undertaken - this is misleading.
- The eighth and ninth dot points in the Response section should start with the word “Support”, not “continue the” and “ensure”.

Section 5.1.5 (Land-sourced Pollution)

- Some members thought that systems controlling land-sourced pollution should be driven by the goal of pollution prevention.
- The section should make reference to Total Catchment Management as an effective approach to dealing with this issue.
- Under the Response section, the eleventh dot point should advocate restoration of environmental river flows as well as maintenance. The qualification of “inshore areas” is ambiguous.
- The Issues Paper does not explicitly mention sewage outfalls yet these are major contributors to land-sourced pollution.
- The proposed actions are deficient because they do not provide any details on targets, nor do they link to land-use planning or current strategic and on-ground initiatives such as Clean Seas and the Coastal and Marine Planning Program.

³ Some members considered all industries should be expected to achieve ecological sustainability.

Section 5.1.6 (Shipping)

- The balance of the Background and Response is regarded as a good model for other sections.
- Ports are not covered adequately in the Issues Paper. A number of recommendations relevant to ports are provided in the March 1998 MAGOP Report.
- Under the sub-section “Navigation Safety” DGPS is the acronym for Differential Global Positioning System (not Digital).

Section 5.1.7 (Marine Tourism)

- Although recognising that the Oceans Policy promotes ecologically sustainable development, there was some concern at the extent to which this section uncritically promoted tourism.
- Most members advocated the incorporation of a number of concepts in the Challenge, including:⁴
 - raising environmental consciousness
 - promoting linkages between tourism and education/interpretation
 - stronger emphasis on eco-tourism/nature-based tourism
 - linkages with Indigenous communities and cultures.
- Several issues raised in the Background are not addressed through relevant actions. For example, the need for stronger and more coordinated planning and management actions relating to onshore tourism infrastructure.
- Actions relating to analyses of management options to minimise environmental impacts from tourism most effectively (for example, concentrating or diffusing activities) should be included.
- Some members expressed concern over the promotion of tourism development in World Heritage Areas (first dot point under the heading “Planning and Regulatory Issues”, p. 59). All members agreed that tourism within World Heritage Areas needed to be considered in the context of management plans for the areas. Adequate community involvement in the developing of such plans is vital.
- Some members expressed concern over the action “Provide certainty of access to high quality resources ...” (second dot point under “Planning and Regulatory Issues”) as this inferred giving the tourism industry priority over other sectoral interests, including

⁴ Some members considered that it was more appropriate to incorporate these concepts into the Response section and that the concept of “raising environmental consciousness” should be a recurring theme throughout the Policy.

conservation. Removal of the word “certainty” may overcome this inference.

- A number of the recommendations of the March 1998 MAGOP Report are considered germane to this section:

“The environmental impacts of tourism to Antarctica and Australia’s sub-antarctic islands should be investigated, and environmental best practice should be facilitated. If increased tourism is determined to be appropriate, options for assisting the ecologically sustainable development of the industry should be investigated” (Recommendation #69).

“The needs of the marine wildlife watching industry and the economic impacts of the industry should be investigated” (Recommendation #70).

“Access to marine wildlife by tourism operators and other recreational users must continue to be regulated to protect the wildlife, and the adequacy of current regulations regarding access to wildlife should be assessed” (Recommendation #71).

“The potential for development of the cruise shipping industry in Australia should be explored. This should include development and implementation of a policy and strategy relating to cruise shipping, and examination of the regulatory regime and multiple use and environmental issues relating to cruise ships” (Recommendation #72).

Section 5.1.8 (Marine Construction, Engineering and Other Industries)

- More emphasis needs to be given to maritime education - this is mentioned in the Background as an area of potential expansion, but there are no actions promoting the area. Cross-referencing to the Marine Science & Technology Plan on this issue would be instructive.

Section 5.1.9 (Pharmaceutical, Biotechnology and Genetic Resources)

- The second and fifth issues (p. 63) are linked as issues for biotechnology firms and so should be physically linked in the text.
- The fundamental importance to the maintenance of biological diversity and biotechnology should be further emphasised.
- Reference should be made to indigenous Australians’ high level of concern over access to genetic resources, intellectual property and ownership.

Section 5.1.11 (Aboriginal and Torres Strait Islander Peoples’ Responsibilities & Interests)

- In this section, as in a number of others, the actions starting with the word “encourage” (dot points one and five) should be strengthened and convey a genuine commitment. “encourage” should be replaced by words such as “facilitate”, “support” or “involve”.

- The first dot point under the Response should be rewritten to highlight and state the specific inclusion of indigenous peoples in policy determinations, planning and the management of marine resources and as a consequence include indigenous peoples not only in resource allocation but in the potential benefits forthcoming through due process and outcomes.
- Some members consider that the fourth dot point implies that the National Aboriginal and Torres Strait Islander Rural Industry Strategy provides, through its own exclusiveness, all the benefits possible for indigenous peoples in Australia. This is not a unanimous view.
- Dot points six and seven should be strengthened to read “Promote and develop ...” rather than just “Promote ...”.

Section 5.1.12 (Natural and Cultural Heritage)

- ‘Marine Heritage’ is suggested as an alternative title for this section.

Section 5.2.1 (Skills Development & Community Participation, Information & Education)

- Genuine community participation in planning and management initiatives is vital to maintaining the health of our oceans. The wording and examples in the March 1998 MAGOP Report (Section 11.3 Community Awareness, Understanding and Participation, p. 42) should be considered for inclusion in the final policy document.
- Under the section on Professional Development, the gap analysis should also include researchers. The reference to capacity building under Coasts and Clean Seas should be broadened to reflect a much wider need for activities in this area.
- The Marine and Coastal Community Network should not be the only such organisation mentioned for support as there are a number of such groups acting as facilitators and information exchange brokers. This statement should be made more general.

5.3.2 (*Marine Biological Diversity and Ecosystem Processes*)

- The Challenge should explicitly note the need for information to assist in the protection and conservation of marine flora and fauna.
- The Issues Paper focuses on ‘mainstream’ research and surveys for collection of information for management and ignores a host of other mechanisms (for example Environmental Impact Studies) as means of obtaining useful information. An action to capture environmental information from a wider range of sources should be included.
- Related to this is the need for an action that promotes the exchange of information (where appropriate) between sectoral agencies at the cost of the transfer. A link should be made to the Marine Science & Technology Plan on this point.
- The first dot point under Response alludes to the collection of information relating to marine ecosystem structure and function, but neglects the basic requirement for information to assist in defining and refining marine ecosystem boundaries.

5.3.3 (*Information for Management: Monitoring and the State of Environment Reporting*)

- The need for feedback mechanisms between planning/management and research should be stated.
- The first sentence of the first paragraph under the heading “State of the Environment Reporting” should be re-worded to be more realistic, for example - “State of the Environment reporting should be independent ...”.
- This Section should be linked to Section 5.5.1 Performance Assessment and Reporting.
- The need to maintain reserves as reference points/baselines should be stated.
- A need to maintain core capacities in all government spheres to continue State of Environment reporting on a regular basis should be recognised.

Section 5.3.5 (*Climate Change and Variability*)

- Some members expressed concern over the placement of this critical issue towards the back of the document and argued it should be given a higher profile.
- Concern was expressed over the proposed action “Conduct further research into the potential for, and feasibility of, the use of the oceans as sinks for greenhouse gases” (p. 78). The Group considered that this issue should be approached with caution. Some members were of the view that any large-scale manipulative experimentation should be deferred pending a better understanding of oceanic processes; others preferred “Improve understanding of the potential ...” rather than “Conduct further research into the potential...”.

Section 5.4.1 (Defence)

- This Section should be re-written to be consistent with the style and language of other sections.
- The ADF's environmental capabilities including monitoring, research into anti-fouling paints and commitments (for example their voluntary adoption of MARPOL) should be noted in this Section and Responses revised accordingly.
- There should be mention of the environmental impacts of the ADF's operations.
- The first header under "Defence Requirements" ("Freedom of operations") should be in bold font.

Section 5.4.2 (International)

- Recommendation #93 from the March 1998 MAGOP Report is relevant to the third dot point under Response and should be included, with the addition of AusAID as another mechanism and with broadening of the scope of Australian expertise to the marine sector as a whole rather than the current strong emphasis on marine science:

"Australia should, through Austrade and appropriate bilateral and multilateral forums, raise the profile of Australia as a source of high quality expertise in marine science education, research and management, and continue to fulfil a role of international leadership in these fields through assisting other countries of the region to build their capacity" (Recommendation #93).

- The relevant text under Section 11.6 (International Leadership) of the March 1998 MAGOP Report (p. 44) should be included.

Section 5.4.3 (Surveillance and Enforcement)

- The Issues Paper adopts an unrealistically complacent view of the threats to Australia's marine jurisdictions. As noted in the March 1998 MAGOP Report, there is an urgent need to address these issues because of the size of the EEZ and increasing threats, particularly in a marine environmental context. The Group considers current arrangements to be insufficient to cope with existing threats, let alone greater risks in the future.
- There should be more consideration of the need for integrated, strategic approaches to the issues. The March 1998 MAGOP Report discusses these needs.
- The fourth dot point ("Examine complementary actions ...") gives no commitment to action beyond the examination of the issue. Will this be followed up if effective

alternatives are determined?

- The Group did not believe that the ocean-going Customs vessels had the capacity to carry out surveillance tasks similar to those now performed by the RAN's Patrol Boat Force.
- In the fourth last dot point (p. 86) the word "Encourage" should be replaced by another word connoting a stronger commitment.

Section 5.5.1 (Performance Assessment and Reporting)

- The Group is strongly supportive of inclusion of performance assessment and reporting, but the Issues Paper does not elaborate on the necessary details to ensure this is effective. For example, who will undertake the assessment and reporting and how will the assessment and reporting be undertaken?
- In the context of performance assessment and reporting, it is particularly important that the policy be presented in such a way as to facilitate auditing of actions and their effectiveness.
- This Section should be linked to Section 5.3.3 (Information for Management: Monitoring and State of the Environment Reporting).

Section 6.1 (The Legal and Constitutional Framework of Australia's Marine Areas)

- In the second paragraph of the section on the Offshore Constitutional Settlement, the qualification in the second sentence ("... but not including internal waters that are within the constitutional limits of a State; for example, Sydney Harbour.") should be deleted.