

# The South East Regional Marine Plan: Implementing *Australia's Oceans Policy*

Joanna Vince\*

*School of Government, University of Tasmania, Locked Bag 1340, Launceston 7250, Tasmania, Australia*

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## Abstract

In 1998, the Australian Government released *Australia's Oceans Policy* (AOP), a world first policy initiative focused on providing a framework for integrated ecosystem-based management of Australia's vast marine domain. The South East Regional Marine Plan, the first regional marine plan to be implemented under AOP, was released on 21 May 2004. This paper argues that although full integration across sectors and jurisdictions has not occurred, new AOP initiatives, institutions and governance processes have considerably increased sectoral and jurisdictional coordination in the South East region.

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## 1. Introduction

The release of *Australia's Oceans Policy* (AOP), 1 week before the end of the International Year of the Ocean 1998 [1], sealed Australia's commitment to comprehensively review its ocean and marine resource policies. AOP is being implemented through regional marine plans (RMPs) and the South East is the first region to have its Final Plan completed. A Supplement to the Plan including a performance assessment system and a National System of Marine Protected Areas (MPAs) is to be released in early 2005. Consequently, the South East Regional Marine Plan (SERMP) will be the first RMP to be evaluated by the Australian Commonwealth Government and used as a template for further Oceans Policy implementation.

The South East marine region covers 2 million square kilometres of ocean that includes waters off the states of Victoria, Tasmania, southern New South Wales and eastern South Australia (see Fig. 1) [2]. Its vast size and complex temperate ecosystem has made the South East

a challenging area for the Commonwealth to address through its first RMP. Despite the aim of AOP to reach full integration, divisions across jurisdictions (Commonwealth, State and Territory) and sectors (such as fishing, oil and petroleum mining) embedded in the legislative framework have resulted in a partially integrated approach to implementation.

During policy development in 1996 to mid-1998, the Commonwealth embraced a 'whole of government' approach that included consultation with the states and key stakeholders. Despite these early negotiations, 6 months before the release of AOP the Commonwealth ceased its consultation with the states and AOP became a Commonwealth initiative covering only Commonwealth waters [3]. The SERMP process has resulted in some communication between the states from the southern region and the Commonwealth on the state officer level, through the Southeast States Consultative Working Group [4]. Nevertheless, the establishment of this Working Group has not resulted in state ministerial agreements formalising their involvement in the SERMP.

The SERMP's implementation is coordinated by the National Oceans Office (NOO) located in Hobart, Tasmania. The National Oceans Ministerial Board

\*Tel.: +61 3 6324 3262; fax: +61 3 6324 3610.

E-mail address: [joanna.vince@utas.edu.au](mailto:joanna.vince@utas.edu.au).

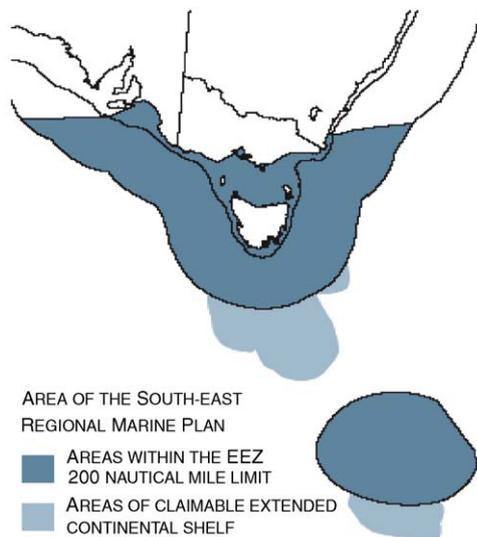


Fig. 1. The area covered by the South East Regional Marine Plan. Source: [47].

(comprising of five Commonwealth Ministers), National Oceans Advisory Group (NOAG) and the Regional Marine Plan Steering Committees have also been established to assist in the implementation of AOP [5]. NOAG and Regional Marine Plan Steering Committees represent each sector in the implementation process. Interestingly, the conservation sector is often overlooked in Australian policy development and implementation, and the Commonwealth has provided the sector with the opportunity to be a key part of the AOP decision-making process—even more so than the states.

The states are represented through the Natural Resource Management Ministerial Council (which replaced the Australian and New Zealand Conservation Council) and its objective is “to promote the conservation and sustainable use of Australia’s natural resources” [6]. The Council consults on intergovernmental issues for the implementation of AOP and is also involved in a separate, albeit relevant initiative, Integrated Oceans Management, which is being addressed through its Marine and Coastal Committee (see [7]).

Despite the Commonwealth’s efforts to establish new ocean institutions and policy processes, the aim of AOP to reach full integration after 6 years of implementing the SERMP is far from complete. Nevertheless, as the following sections demonstrate, the increased coordination resulting from AOP has initiated communication across sectors and jurisdictions seen for the first time in Australian ocean governance.

## 2. Background to Australia’s Oceans Policy

Australia’s Constitution clearly divides jurisdictional responsibilities affecting the marine environment be-

tween the Commonwealth, state and Territory. Since colonial rule (pre-Federation—1901), the Australian states have retained a majority of the powers and responsibilities over marine resources within the 3 nautical mile limit with a sector-based management approach [8]. Commonwealth powers are limited to regulating external affairs and fisheries beyond territorial limits [9] outlined through Section 51 (x) and (xxix) of Australia’s Constitution. Whilst it may seem that the Commonwealth has restricted responsibilities over ocean and marine resources, it has effectively used its powers to legislate in offshore, coastal and marine resource matters (see [10]). The Commonwealth, however, has been labelled as “orthodox” [11] and “leisurely” [12] in the use of its powers in ocean resource management. Nevertheless, it pursued an interest in offshore oil and petroleum mining activities in the 1960s which heightened intergovernmental conflict with the states.

The seriousness of the Commonwealth’s interest in the offshore was demonstrated through the *Seas and Submerged Lands Act* 1973 that declared Commonwealth sovereignty from the low water mark. Prior to the enactment of this legislation, the low water mark to 3 nautical miles offshore was the jurisdictional responsibility of the states. The states challenged the validity of Section 51 (xxix) which was used by the Commonwealth as a ‘constitutional anchor’ for the *Seas and Submerged Lands Act* in the Australian High Court [13]. The High Court’s decision in the 1975 *Seas and Submerged Lands Case* [14] supported the Commonwealth’s sovereign rights established by the Act.

After 3 years of intense intergovernmental negotiations between the Commonwealth and the states, the Offshore Constitutional Settlement (OCS) returned the jurisdiction from the low water mark to the states. The OCS has become known as a milestone in intergovernmental negotiations and provides the framework for marine resource management in Australia. The development and implementation of the OCS was unique in that it addressed each sector’s issues separately within its ‘agreed arrangements’ (including a legislative package; an offshore ‘petroleum package’; an offshore fisheries package; a Great Barrier Reef package; and new ancillary arrangements [15]). The High Court’s decision in 1975 and the OCS reinforced the Commonwealth’s Constitutional and legal rights to control aspects of the offshore. The OCS remains the primary intergovernmental arrangement governing ocean and marine resources in Australia and makes up the legislative framework for the development and implementation of AOP. After a century of policy making in ocean issues, despite being leisurely in its initial approach, the Commonwealth has secured its position as a major decision maker in marine resource management, and has dominated the ‘oceans policy

community' that has evolved with Commonwealth policy making (see [16]).

The 1982 *United Nations Law of the Sea Convention* (LOSC) (see [17]), which entered into force on 16 November 1994, instigated the development of AOP. Australia's Exclusive Economic Zone (EEZ) was announced in 1991 and was formally proclaimed following ratification of LOSC in 1994. Australia's EEZ is the third largest in the world [18] and LOSC provides Australia with the sovereign rights over living and non-living resources within its boundaries. A requirement of LOSC is for nations to demonstrate that they can effectively manage the resources within their EEZs and Australia fulfilled its obligation through the following policy developments.

### 3. The development of *Australia's Oceans Policy*

The Australian Commonwealth Government released AOP on 23 December 1998. Preceding the policy were two consultation papers, four Background Papers and seven Issues Papers that were publicly consulted upon and analysed for the drafting of the final policy document (see [19]). The Oceans Policy documents accompanied by Background and Issues Papers are the first thorough biophysical, environmental, social, cultural and legal examination of Australia's ocean domain.

The Oceans Policy is set out in two volumes, *Australia's Oceans Policy* and *Specific Sectoral Measures* [20]. The aim of the Oceans Policy is to overcome problems perceived to arise from the division of powers and responsibilities leading to jurisdictional overlap and inconsistencies in ocean management. The policy also intends to overcome the problems and limitations imposed by sectoral-based management by supporting integration across sectors.

The first volume of the Oceans Policy is 48 pages in length, introduced by an opening message from Prime Minister John Howard. He states that

with the release of *Australia's Oceans Policy* we again demonstrate our world leadership by implementing a coherent, strategic planning and management framework capable of dealing with the complex issues confronting the long term future of our oceans. [21]

The document outlines that the development of RMPs will be the core of the Oceans Policy and all Commonwealth agencies are bound to those plans [21, p. 2]. States and Territories were invited to endorse the document and the policy states that they "will play an important part in ensuring its effective implementation" [21, p. 1]. In the Foreword by Senator Robert Hill, it is made clear that the policy is "neither solely an

environmental protection nor solely an economic development policy" [21, p. 3].

A commitment to ecologically sustainable development and multiple use management is embedded within the Oceans Policy framework emphasising a commitment to Agenda 21 principles and LOSC. The policy stipulates that "multiple uses of the same ocean resource should be considered jointly so that their overall impacts on the oceans, and the impacts they have on each other can be understood" [21, p. 37]. Ecosystem-based planning and management ensures the maintenance of ecological processes, marine biological diversity and populations of all native marine species. The Oceans Policy asserts that although conservation of the marine environment and biological diversity values are a priority, "human values will play a dominant role in decisions about oceans" [21, p. 10].

Whilst the Oceans Policy was being developed, the Commonwealth continued with its commitment to develop a comprehensive review of Australia's marine science and technology. The *Marine Science and Technology Plan—Draft for Consultation* was a companion to *Australia's Oceans Policy—An Issues Paper* and was released on 10 June 1998 [22].

The completed *National Marine Science and Technology Plan* was released on 25 June 1999 by the Minister for Industry, Science and Resources, Senator Minchin [23]. The Plan was developed by an expert Working Group in the Department of Industry, Science and Resources, well away from the Marine Group in Environment Australia (now the Department of Environment and Heritage) that developed the Oceans Policy [24]. Reichelt and McEwan [24] note that

in particular, the [Oceans] Policy provides both the themes and the structure to bridge and integrate the actions and jurisdictions of the Commonwealth and the seven state/Territory governments concerned and to link them from the ministerial to the working level, while the [Marine, Science and Technology] Plan helps to better define the responsibilities and tasks of the Commonwealth agencies who will provide the scientific and technical implementation.

Senator Minchin [25] noted that the Plan "reinforces the importance of the regional marine planning concept at the core of the Government's Oceans Policy". The Plan focuses on the problems and opportunities for marine, science and technology in supporting the Oceans Policy. It outlines three interdependent programs; understanding the marine environment; using and caring for the marine environment; and infrastructure for understanding and using the marine environment [26]. In summary, *Australia's Marine Science and Technology Plan* outlines the immediate priorities identified within the programs that underpin the SERMP.

#### 4. Regional Marine Planning

RMPs are based on large marine ecosystems and are binding on all Commonwealth agencies [27]. RMPs divide the areas into “natural boundaries” where the ecosystem of each region can be considered as a whole. Morrison argues that by selecting regions based on their ecosystems is “attractive and scientifically advantageous” [28]. He goes on to say that

the natural boundaries provide suitable points for delineation of management regimes that will facilitate planning which addresses the protection of natural processes and resources, while considering the wide range of human use needs [28].

Juda identifies a number of principles that must be followed if RMPs are to be successful. They include integrated natural science and social perspectives; links between coastal land and impacts on oceans; sustainability; precaution; public participation; equity; a method in addressing externalities; market forces and adaptive management [29]. Morrison also acknowledges the importance of RMPs but stresses that those managing a RMP need to recognise the region’s strengths and weaknesses. Sectoral interests and a weak scientific knowledge base are common problems in regional marine planning and Morrison [30] suggests that there is a need for steering committees to overcome these weaknesses.

The Oceans Policy RMPs aim to integrate and complement state and Commonwealth interests whilst using existing organisational structures.

They will be used to identify natural resources and economic and other opportunities, threats to ecosystem health, ecosystem ‘characteristics’, baseline inventories, conservation priorities, community interests and industrial priorities. They will also assist in resolving conflicts of use, the provisions of planning security and the development of indicators of sustainability [31].

In essence, the SERMP covers a complex region with four state governments and numerous local governments having some jurisdiction in the region. Moreover, approximately 50% of Australia’s population lives in adjacent coastal lands to the South East ocean area [32].

The Oceans Policy introduces the Regional Marine Plan Steering Committees as key institutional arrangements in the implementation process. The Committees are made up of key government and non-government stakeholders, and are established by the National Oceans Ministerial Board when a new RMP is commenced. The policy states that they will oversee the development of RMPs along with NOO and report to the Ministerial Board [33]. Notably, the Oceans Policy mentions that “state and Territory governments and agencies will be encouraged to participate on the

Steering Committees where they are involved in Regional Marine Plans” [33, p. 17].

The first Regional Marine Plan Committee for the South East Region was established in November 2000 and its work concluded with the release of the Draft South East Regional Marine Plan. It consisted of nine members from a broad range of relevant disciplines including planning; indigenous; economic and social; environmental; fishing industry; resource management; legal; tourism; and ecology [34]. Interestingly, the Steering Committee did not include any Commonwealth or state government representatives. At the time, Adler and Ward [35] argued that as a result, the Committee lacked the “transparent mechanisms for promoting integration of management practices within the federal government”.

The Oceans Policy outlined a time plan of the development of institutional arrangements and implementation measures. According to Wescott [36]

the expectation that a completely new set of institutional arrangements including the establishment of a Board, Advisory Group, Office and first Regional Steering Committee and the drafting of a Regional Marine Planning Process from scratch within six months was, frankly, unrealistic from the beginning.

The first Regional Marine Planning Workshop was held in May 1999 and the participants consisted mainly of governmental representatives, however, non-governmental individuals also attended the 2-day Workshop. Little progress was made on the scope, nature and format of RMPs as the participants were experts in their fields but few had planning experience in multisector issues [37]. The states made clear that they refused to cooperate fully on the formulation of the RMPs and the Workshop “failed to achieve a major commitment of all governments to the policy” [37].

A year following the release of the Oceans Policy only three out of the five key institutions were established; the implementation process for the SERMP had only been drafted and not finalised; and not one state/Territory government had signed the Memorandums of Understanding with the Commonwealth committing to the Oceans Policy process [38]. The commitment to hold NOAG’s “Towards a Regional Marine Plan for the South East” National Oceans Forum in December 1999 was also reorganised for April 2000. The SERMP was launched at the long awaited Forum which was held in Hobart, Tasmania. The 185 individuals present at the Forum represented Commonwealth agencies, non-governmental organizations (NGOs) including conservation groups, and key research institutions. State and local government representation included the New South Wales Cabinet Office; Local Government Association of Tasmania; Western Australian Department of Environmental Protection; New South Wales Fisheries;

Victorian Department of Natural Resources and Environment; Queensland Environmental Protection Agency; Department of Premier and Cabinet, Victoria; and Department of Primary Industries, Water and Environment, Tasmania [39]. Considering major state agencies were invited by NOO to attend, state representation at the Forum was poor.

The Forum consisted of presentations by the members of NOAG and Workshop sessions. The individuals of NOAG focused on their sector's interest in the Oceans Policy process and did little to emphasise integration across sectors in their speeches. Nevertheless, there were a number of important outcomes that resulted from the Forum. First, participants agreed that the RMP process should be holistic and the role of stakeholders and their commitments to the policy should be emphasised. Second, the approach to RMPs should be outcome and performance based within a predetermined time period. Cooperation and collaboration was also stressed as being important for government/sector relations. Third, participants also stated that an emphasis on the precautionary approach and environmental management was needed in the RMP process [39].

The RMP process has four phases of development including the initial notice and scoping of the Plan; determining the economic, social, environmental and cultural characteristics of the Region via assessments; negotiation of options; and drafting and approving options to implement the Plan [40]. The initial steps towards the implementation of the SERMP began when the NOO, along with the CSIRO and the Australian Geological Survey Organisation (AGSO) jointly funded a A\$2.7 million project mapping the seabed and assessing the marine life in deep waters in the South East region during April and May 2000 [41]. Australia was obligated to map the seabed and continental shelves as a requirement of LOSC. Senator Calvert stated at the time that the seabed mapping was “*Australia's Oceans Policy* in action, and it is just the beginning” [42].

## 5. Scoping phase

The Environment Minister and Chair of the National Oceans Ministerial Board, Robert Hill, released the *Scoping Paper for the South East Regional Marine Plan* on 31 January 2001. He claimed that “[it] describes the planning process and how people can be involved. It flags some important issues and questions for the Region and invites people to contribute to how the Plan should progress” [43]. The *Scoping Paper* identified that ecologically sustainable development, the precautionary approach, multiple use management and outcome-based planning were the key instruments in implementing an RMP. Performance assessment of the Plan was also recognised as being important in

identifying how to increase management effectiveness [44]. Arguably, the *Scoping Paper* provided the framework of the Draft SERMP for government agencies and stakeholders.

A *Snapshot of the South East*, a description of the SERMP was also released with the *Scoping Paper*. It described the South East region's marine environment and its uses. The environment, history and people in the region are detailed in the document, giving weight to importance of social aspects of the South East. The uses and management section divides the region into sectors including shipping, ports, fisheries, oil and gas, minerals and extractive resources, tourism, defence, conservation and MPAs—all of which are covered further in the Assessment Reports [45].

## 6. Assessment phase

In 2002, NOO released 17 Assessment Reports and a Discussion Paper as part of the assessment phase of the SERMP. The Reports covered a range of issues from the use of ecosystems to the use of resources in the region. The Reports were divided into six key themes that include biological and physical characteristics; uses within the South East region; impacts on the ecosystem; community and cultural values; indigenous uses and values; and management and institutional arrangements [46]. The Reports comprehensively detailed all aspects of the region to an extent that had not been previously detailed. Maps of the seabed and continental shelf from NOO, CSIRO and AGSO's mapping expedition were used to illustrate aspects of the region [47]. Of particular significance to cross-sectoral and cross-jurisdictional integration was the Legal Framework Assessment Report that revisited the legal aspects of marine management within the South East region.

The Report addressed stakeholder concerns with the current management regime in the living marine resources sector. The largest concerns were from the fishing sector who argued that commercial fisheries are over managed by Commonwealth agencies (Department of Fisheries, Forestry and Agriculture; Australian Fisheries Management Authority and Department of Environment and Heritage) and there is “inadequate coordination” between the agencies [48]. Recreational fishing falls under state jurisdiction and is not addressed in the OCS. Representatives of the recreational fishing sector indicated in the Report that they would like to be managed by the Commonwealth [48].

The Conservation sector argued that legislation should be enacted to enforce the goals of AOP. The sector's particular concern was the overlap of Commonwealth and state regulations and the limitations of the OCS [48, p. 99]. The petroleum industry, on the other hand, claimed that it would accept multiple use

management, however, it did not “need more regulation” [48, p. 99]. The commercial fishing industry argued that cooperative implementation arrangements were more flexible and advantageous to stakeholders than more regulation [48, p. 100]. State legislation and states’ positions as stakeholders in marine management were not covered in this report.

## 7. The conservation sector and its concerns

Whereas formal state participation in Oceans Policy implementation has been minimal, the conservation sector (represented by environmental NGOs) has been a keen participant in the decision-making process. NGO positions on Oceans Policy issues are institutionally represented in the policy process through NOAG and the SERMP Steering Committee. NGOs have been invited to actively participate at the National Oceans Forum and subsequent conferences. Whilst this has given the conservation sector a unique opportunity to take an active part in the AOP decision-making process, the Commonwealth has encouraged NGO participation for two key reasons. First, AOP was originally administered by Environment Australia and the Liberal Party in its election platform related to AOP during its early development as an “environmental policy” [49]. Although (as indicated earlier) this focus changed when the Liberal/National Party coalition government was re-elected, it is not surprising that NGOs were included as key stakeholders. Second, it is also clear that the Commonwealth deliberately allowed NGOs to participate in the decision-making process as a strategic advantage—where friends are kept close, and in this case, ‘enemies’ kept closer.

Following the release of the Oceans Policy in early 1999, NGOs did not have any immediate major uncertainties with the policy process and focused on other Oceans Policy commitments such as the development of the South Pacific whale sanctuary and problems associated with that commitment [50]. Tarte [51] argued that they

have been strongly advocating the development and implementation of an oceans policy for all Australian waters since the United Nations Convention on the Law of the Sea came into force in late 1994.

In fact, NGOs at the time had to justify why they reacted favourably to government policy. Tarte [51] explained that

there is an opportunity to develop new and more effective management practices by focusing on the management of ecosystems and not just the exploited or impacted species within those ecosystems. Our task is to not only develop a better management

framework, but also to get the key marine interest groups to realise that supporting the policy and participating in a reformed management regime will have long term benefits for all marine interests.

In March 2003, the Victorian National Parks Association, Whale and Conservation Society, Australian Marine Conservation Society and Australian Conservation Foundation released *Oceans Eleven*, a report on the implementation of AOP and in particular, the SERMP. Eighteen national and regional NGOs are signatories to the Report which contains six major recommendations to improve regional marine planning [52]. The Report was specifically released during the beginning of 2003 to be considered during the final drafting of the SERMP. The conservation groups were concerned that the Oceans Policy will not deliver an ecosystem-based approach and the executive summary claims that “five years on, the movement from policy to action has stalled” [52]. The recommendations of the report include

- (1) That ecosystem-based management is reinforced as being the heart of the Oceans Policy and regional marine planning.
- (2) That a National Oceans Act and, a sufficiently empowered National Oceans Authority be created.
- (3) That a National Marine Research Council is formed to review and fund an expansion of marine research.
- (4) That the National Representative System of MPAs is established with a core network of marine national parks that are of sufficient number and size to protect the range of marine ecosystems in Australia’s care.
- (5) That the Commonwealth and state governments make a commitment to community capacity building, education and engagement in regional marine planning.
- (6) That the 11-step process for ecosystem-based regional marine planning be adopted [52].

Whilst the Report had valid recommendations and they have been taken under consideration by NOAG, not all were recognised in the Draft SERMP. The provisions for legislation are embedded in the Oceans Policy; however, the enactment of a Commonwealth National Oceans Act is not considered within the SERMP or AOP process.

## 8. The Draft South East Regional Marine Plan

Foster, Haward and Coffen-Smout argue that initially the SERMP was “primarily a ‘plan’ that would identify gaps and direct future oceans-related policy and management within the region” and that since its

development, the SERMP's focus has shifted towards 'process' (see [53]). This change emerged following discussions at a workshop between the NOO and Board agencies on 21 February 2003 in Canberra and is reflected in the draft SERMP—the 'action plan' for AOP implementation (see [53]).

The *Draft South East Regional Marine Plan* [54] was launched by the Minister for Environment and Heritage, Dr. David Kemp [55], on 18 July 2003. The Plan was released for public comment with a companion *Principles and Processes* [56] document and a stakeholder submission form to be completed by October 2003. The Draft Plan "outlines the way in which the government and stakeholders are working (and will continue to work) together to maintain ecosystem health while promoting ecologically sustainable development in the Region" [57]. It proposes specific actions that include inter alia, further development of MPAs; development of a performance assessment system for both the environment and industries; and improved cross-jurisdictional coordination.

The draft Plan emphasises that it is not new regulatory regime or layer of management but it uses existing sectoral-based management arrangements for its implementation. Nevertheless, it stresses that "clearer links and more consistent approaches for management are required to allow management decisions to better recognise natural ecosystems and the needs of resource users" [58].

The Draft SERMP is divided into six sections that include managing uses; ecosystems; participation and consultation; adaptive management; governance; and implementation and review. The Action Plan that follows outlines in tabular form current and proposed actions to achieve the objectives of the SERMP. Interestingly, the table also outlines which agency is responsible for the action and the approximate time it will take to implement each action [59]. The draft SERMP clearly stresses the shift of focus from plan to process; however, there is little indication of how each action will be carried out.

The *Principles and Processes* document sets out to make the Oceans Policy "more operational" and describes major mechanisms to achieve this including an Integrated Ocean Process; Oceans Guidelines; Regional Marine Planning; Cross-sectoral Institutional Arrangements; and Assessing Management Performance [59]. Of particular significance is the introduction of new institutional arrangements, the Oceans Policy Science Advisory Group and the Oceans Board of Management.

The purpose of the Science Advisory Group is to advise on the further development of scientific work programs to support regional marine planning and the implementation of AOP. The Board of Management will comprise of the heads of relevant Commonwealth

departments and will advise the National Oceans Ministerial Board on implementation issues [60]. The Draft SERMP reinforces that the Oceans Policy is being implemented through a whole of government approach with a commitment through the institutional arrangements for integration across sectors. Whilst full integration between jurisdictions is yet to be achieved, a number of actions within the Draft SERMP cannot be implemented without state support.

The stakeholder responses to the Draft SERMP were released in a Submissions Report in January 2004 [61]. NOAG, the South East Steering Committee, the South East Regional Marine Plan Working Group and the South East States Consultative Working Group were also formally involved in the consultation process. Approximately 3000 copies of the Draft Plan were distributed by NOO to stakeholders and 400 people attended regional meetings throughout the South East region [62]. Despite the large number of stakeholders who accessed the Draft Plan, only 71 submissions were returned. NOO even extended its final submission date to receive late responses [63].

Stakeholders concerns addressed many of the issues and actions outlined in the Plan, in particular MPAs and State/Federal jurisdictional issues. An anonymous individual stakeholder's comments that were outlined in the Report demonstrate a key concern of the community:

The resolution of the role of the State governments in the decision making process remains the main critical issue. Unless this is resolved satisfactorily, then the resolution of critical resources allocation issues will remain difficult and may well undermine the success of the SERMP...

Indeed, the importance of state/Commonwealth relations in the SERMP process is still an issue for many stakeholders and comments in the Submissions Report are reflective of the Stakeholder Assessment Reports released in 2002 [64]. The commercial fishing industry mainly commented on the social and economic costs associated with MPAs with concern that the Draft Plan "undervalues the fishing industry when compared to other sectors..." [64, p. 15]. The conservation sector, once again highlighted the need for legislation and that "the draft plan catered more for industry requirements, with conservation outcomes a lower priority" [64, p. 16]. General community comments focused on the Action Plan and that "actions describe *what* but not *how*" with an emphasis on "improved cooperation between state and Australian governments" [64, p. 17]. It is plain to see through these responses that although some progress has been made towards full integration across sectors, individual goals and objectives inherent to each sector remain a priority.

## 9. The South East Regional Marine Plan

The Hon. Dr. David Kemp [65], Minister for the Environment and Heritage launched the *SERMP* in Port Melbourne on 21 May 2004. The Plan is an advance in comparison to the Draft *SERMP*. It is divided into three main sections: The Way Forward, Action Plan and Status Reports. The Way Forward examines governance and institutional arrangements; managing uses; ecosystems; cooperative management; implementation and review. This section emphasises that AOP has resulted in “improved governance and institutional arrangements for oceans management, particularly within the Australian Government” [66]. The *SERMP*’s implementation and review will occur over a 10-year cycle with the focus of the review being on the Action Plan and regional objectives [66, p. 39].

The Action Plan on the outset appears similar to the plan suggested in the Draft *SERMP*. The major differences between the Draft Plan and Final Plan include: new actions and changes to ecosystems approaches in the Action Plan; Participation and Consultation section is renamed Cooperative Management with additional actions; Adaptive Management and Governance sections are replaced with an Implementation and Review section [66, p. 44–59].

The Status Reports address the progress of some of the actions in the Action Plan and future activities. They cover Adaptive Management and Performance Assessment; Education; Economic Issues; Multiple-use Management; Pilot Sea Country Plans; support for Estuarine Managers; Risk Assessment; MPAs; and Introduced Marine Species [66, p. 60–89]. The most detailed is the *Commonwealth Marine Protected Areas (MPAs) Status Report in the South East Region* as many actions have been implemented, or are in the process of being implemented. Future actions along with a timeframe are clearly outlined in this Report, with strong references to stakeholder inputs into the process [66, p. 84].

## 10. Responses to the SERMP

Mixed reactions to the *SERMP* have mainly come from the Australian conservation sector and concerns are no longer based on the validity of the Plan itself, but on the methods that will be used to implement actions. The World Wide Fund for Nature (WWF) found the *SERMP* to be a positive development. It recognised that there is still some progress to be made regarding ecosystem management but saw the Plan as “a useful first step towards securing integrated management of all human activities in the marine environment covered by the plan” [67]. Conversely, the Australian Conservation Foundation described the *SERMP* as “a plan to create a plan” [68].

Stakeholders have gradually shifted their focus since the Scoping and Assessment phases of the *SERMP* from jurisdictional concerns to MPAs. The Australian Conservation Society (ACS) found the Plan and its examples of two new MPAs “disappointing” [69]. In particular, the ACS stressed that the Plan lacks detail and that it should “place the needs of the environment first and allow only sustainable levels of exploitation to occur” [69]. It also argued that an increase in scientific involvement is needed to identify and select MPAs [70].

Other sectors had minimal public responses to the Plan, except the Australian Seafood Industry. It also indicated that “there would continue to be a high level of uncertainty across industry until the details of many of the actions within the [SERMP] Plan are known, particularly the Marine Protected Areas Program” [71]. The *SERMP*, however, is not complete and a Supplement to the Plan is to be released in 2005. The Supplement will contain the complete system of MPAs and a performance assessment system to measure actions against ESD objectives for the region.

General reactions from Commonwealth agencies towards the *SERMP* have been positive. It is informally acknowledged, particularly outside the NOO, that the aim of the Oceans Policy has changed from ‘integration’ to ‘cohesion’ of processes across sectors and jurisdictions [72]. Nevertheless, the *SERMP* process has instigated a significant change in policy making and marine management in Australia. This change has been identified by an employee of NOO as a ‘cultural’ change where Commonwealth agencies make great efforts to deal with Oceans Policy issues from a whole of government perspective and stakeholders attempt to consider each other in their management decisions [73].

## 11. Lessons learned from the SERMP process

The implementation of the *SERMP* has understandably been a process of trial and error for the Commonwealth. It has, nevertheless, provided some direction for development and implementation of the Northern RMP and South West RMP. NOO released a *Snapshot* of the Northern RMP in November 2003 [74] and the Plan is currently in its Scoping phase. The South West RMP is in development.

Although in their preliminary stages, the Northern and South West RMPs are different models to the South East. Different circumstances in each region have resulted in models tailored to those circumstances. For example, the Northern region’s Commonwealth/state relationship is vastly different to that in the South East. In October 2002, Queensland and the Northern Territory governments agreed on Memorandums of Understanding with the Commonwealth on activities regarding the Northern RMP [75]. This was the first

successful attempt at formal intergovernmental coordination since the implementation of AOP. Nevertheless, it is claimed that the SERMP has resulted in increased informal state communication through the Southeast States Consultative Working Group in an “open environment” and it has been interesting for those involved to “see what works and what doesn’t” [76].

## 12. Conclusion

The SERMP process provides two valuable lessons for the implementation of other RMPs in Australia and other countries undertaking similar ocean policy approaches. First, the aim to reach full integration within a relatively short period of time whilst implementing a new RMP (without an agreed framework) is difficult, if not impossible to accomplish. Commonwealth agencies need to acknowledge that the restraints of Federalism may prevent full integration across sectors and jurisdictions from ever occurring. Second, partial integration in the SERMP has not resulted in policy failure, rather it has increased cohesion, community consultation, stakeholder participation, and communication between sectors and jurisdictions. This, along with the whole of government approach that has changed the policy process for Commonwealth institutions, is a turning point for ocean governance in Australia.

## References

- [1] Hill R. World First Plan to safeguard our oceans. Media Release for the Minister of Environment and Heritage and Environment Australia, 23 December 1998.
- [2] Commonwealth of Australia. Australia’s Oceans Policy: caring, understanding and using wisely. Canberra: AGPS; 1998; Commonwealth of Australia. Australia’s Oceans Policy: specific sectoral measures. Canberra: AGPS; 1998.
- [3] Foster E, Haward M. Integrated management councils a conceptual model for ocean policy conflict in Australia. *Ocean and Coastal Management* 2003;46:547–63.
- [4] Sullivan S. Beyond our coasts—Australia’s Oceans Policy. Paper presented at the coast to coast conference, Hobart, 19–23 April 2004.
- [5] Vince J. Australia’s Oceans Policy: five years of integration across sectors and jurisdictions? *Maritime Studies* 2003;133:5–7.
- [6] Natural Resource Management Ministerial Council. Natural Resource Management Ministerial Council and Primary Industries Ministerial Council, <http://www.mincos.gov.au>, cited 9 November 2004, date last modified 26 October 2004.
- [7] Foster E, Haward M, Coffen-Smout S. Implementing integrated oceans management: Australia’s South East Regional Marine Plan (SERMP) and Canada’s eastern Scotian shelf integrated management (ESSIM) initiative. *Marine Policy* 2005;29(1):75–83.
- [8] Advisory Council on Inter-Governmental Relations. Studies in comparative federalism, Australia, Canada and West Germany—an information report. Washington, DC, November 1981.
- [9] The ‘territorial limit’ refers to a distance three nautical miles from the low water mark.
- [10] Vince JZ. The Development of Australia’s Oceans Policy: continuity and change in a policy community. Ph.D. thesis, University of Tasmania, 2004; Haward M. The ocean and marine realm. In: Dovers S, Wild River S, editors. *Managing Australia’s environment*. Sydney: The Federation Press; 2003.
- [11] Burmester H. Australia and the law of the sea. In: Crawford J, Rothwell D, editors. *The law of the sea in the Asia Pacific region*. The Netherlands: Martinus Nijhoff Publishers; 1995. p. 51.
- [12] White M. Marine pollution laws of the Australasian region. Sydney: The Federation Press; 1994. p. 7.
- [13] Rothwell D, Haward M. Federal and international perspectives on Australia’s maritime claims. *Marine Policy* 1996;20(1):33.
- [14] *New South Wales v The Commonwealth* (1975) 135, CLR 337.
- [15] Commonwealth of Australia. The offshore constitutional settlement: a milestone in cooperative federalism. Canberra: AGPS; 1980.
- [16] Vince J. The development of Australia’s Oceans Policy: institutions and the ‘Oceans Policy Community’. Presented at the Australasian political studies association conference, Hobart, 29 September–1 October 2003.
- [17] Reichelt R, McEwan AD. Australia’s marine science and technology plan: an action plan for Australia’s Oceans Policy. *Marine and Freshwater Research* 1999(50):711–6; Eadie E. Evaluation of Australia’s Oceans Policy as an example of public policy making in Australia. *Maritime Studies* 2001; 5(120):1–14; Alder J, Ward T. Australia’s Oceans Policy: sink of swim? *Journal of Environment and Development* 2001;10(3):266–89.
- [18] Fisheries Research and Development Corporation. Fisheries natural resources, <http://www.frdc.com.au/industry/resources.html>, accessed 1/6/2003.
- [19] Commonwealth of Australia. Australia’s oceans, New Horizons. Oceans Policy Consultation Paper. Canberra: AGPS; 1997; Commonwealth of Australia. Australia’s Oceans Policy—an issues paper. AGPS: Canberra; May 1998; Commonwealth of Australia. Australia’s Oceans Policy: oceans facts and figures, a primer on Australia’s oceans and exclusive economic zone, background paper 1. A Report Commissioned by Environment Australia, October 1997; Herriman M, Tsamenyi M, Ramli J, Bateman S. Australia’s Oceans Policy: international agreements, background paper 2. A Report Commissioned by Environment Australia, October 1997; Portfolio Marine Group. Australia’s Oceans Policy: analysis of the submissions to the oceans policy consultation paper, background paper 3. Environment Australia, October 1997; Zann L, Earley O. Australia’s Oceans Policy: reviews and recommendations, analysis of marine and coastal reviews and their recommendations in relation to development of an oceans policy for Australia, background paper 4. A Report Commissioned by Environment Australia, October 1997; Sainsbury K, Haward M, Kriwoken L, Tsamenyi M, Ward T. Australia’s Oceans Policy: oceans planning and management, multiple use management in the Australian marine environment: principles, definitions and elements, issues paper 1. A Report Commissioned by Environment Australia, June 1997; Greiner R, Young M, McDonald A, Brooks M. Australia’s Oceans Policy: oceans planning and management, management instruments for marine allocation and use, issues paper 2. A Report Commissioned by the Commonwealth Department of Primary Industries and Energy, September 1997; Pitts D. Australia’s Oceans Policy: oceans planning and management, best practice mechanisms for marine use planning, issues paper 3. A Report Commissioned by the Commonwealth Department of Primary Industries and Energy, September 1997; Brown V, Spink M. Australia’s Oceans policy: socio-cultural considerations, caring for the commons socio-cultural considerations

- in oceans policy development and implementation, issues paper 4. A Report Commissioned by Environment Australia, October 1997;
- Claridge G, Claridge C. Australia's Oceans Policy: socio-cultural considerations, expanding the role of collaborative management and stewardship in the conservation management of Australia's marine and coastal resources, issues paper 5. A Report Commissioned by Environment Australia, October 1997;
- Smyth D. Australia's Oceans Policy: socio-cultural considerations, saltwater country aboriginal and torres strait islander interest in ocean policy development and implementation, issues paper 6. A Report Commissioned by Environment Australia, October 1997;
- Ward T, Alder J, Margules C, Sainsbury K, Tarte D, Zann L. Australia's Oceans Policy: biodiversity conservation, issues paper 7. A Report Commissioned by Environment Australia, November 1997.
- [20] Commonwealth of Australia. Australia's Oceans Policy: caring, understanding and using wisely. Canberra: AGPS; 1998;
- Commonwealth of Australia. Australia's Oceans Policy: specific sectoral measures. Canberra: AGPS; 1998.
- [21] Commonwealth of Australia, "A message from the Prime Minister". Australia's Oceans Policy: caring, understanding and using wisely, p. 1.
- [22] Michaelis F. International year of the oceans—1998 Australia's policies, programs and legislation. Research Paper 6, Science, Technology, Environment and Resources Group, 8 December 1998.
- [23] Minchin N. Australia's new vision for marine science. Senator Minchin's Office Press Release, Friday 25 June 1999.
- [24] Reichelt R, McEwan A. Australia's marine science and technology plan: an action plan for Australia's Oceans Policy. *Marine and Freshwater Research* 1999;50(8):712.
- [25] Minchin N. Australia's new vision for marine science.
- [26] Reichelt R, McEwan A. Australia's marine science and technology plan: an action plan for Australia's Oceans Policy, p. 714.
- [27] Bateman S. Australia's Oceans Policy and the maritime community. *Maritime Studies* 1999;10(8):12.
- [28] Morrison R. Regional marine planning: some general considerations and Australian experiences. *Maritime Studies* 2000;11(0):12.
- [29] Juda L. Considerations in developing a functional approach to the governance of large marine ecosystems. *Ocean Development and International Law* 1999;30:89–125.
- [30] Morrison R. Regional marine planning: some general considerations and Australian experiences, p. 14.
- [31] Reichelt R, McEwan A. Australia's marine science and technology plan: an action plan for Australia's Oceans Policy, p. 713–4.
- [32] Morrison R. Regional marine planning: some general considerations and Australian experiences, p. 16.
- [33] Commonwealth of Australia. Australia's Oceans Policy: caring, understanding and using wisely, p. 16.
- [34] Hill R. South East Regional Marine Plan Steering Committee. Media Release, Environment Australia, 22 November 2000 National Oceans Office. South East Steering Committee, [http://www.oceans.gov.au/se\\_steering\\_committee.jsp](http://www.oceans.gov.au/se_steering_committee.jsp), date accessed 27 October 2004, date last modified 2 July 2003.
- [35] Adler J, Ward T. Australia's Oceans Policy: sink or swim? *Journal of Environment and Development* 2001;10(3):266–89.
- [36] Wescott G. The development and initial implementation of Australia's 'integrated and comprehensive' Oceans Policy. *Ocean and Coastal Management* 2000;43:872.
- [37] Adler J, Ward T. Australia's Oceans Policy: sink or swim?
- [38] Wescott G. The development and initial implementation of Australia's 'integrated and comprehensive' Oceans Policy, p. 872.
- [39] NOAG. Towards a Regional Marine Plan for the South East. Proceedings of a forum convened by NOAG to develop the inputs to the first phase of the implementation of Australia's Oceans Policy, the development of the marine planning process for the South East region, held in Hobart, Tasmania, 14–15 April 2000. Hobart: National Oceans Office; June 2000.
- [40] National Oceans Office. Regional assessments for the South East Regional Marine Plan, [http://www.oceans.gov.au/reg\\_ass\\_intro.html](http://www.oceans.gov.au/reg_ass_intro.html), date cited 2001.
- [41] National Oceans Office. A voyage of discovery. Sea Bites: A National Oceans Office Newsletter, October 2000.
- [42] Joint statement by the Acting Minister for Industry, Science and Resources, Joe Hockey, and Senator for Tasmania, Paul Calvert. Images of seabed in Australia's south east seas a first. Media Release, 12 January 2000.
- [43] Hill R. Marine plan moves forward. Media Release, National Oceans Office, 31 January 2001.
- [44] National Oceans Office. The South East Regional Marine Plan scoping paper. Hobart: AGPS; 2001.
- [45] National Oceans Office. Snapshot of the South East: the South East Regional Marine Plan. Hobart: National Oceans Office; 2001.
- [46] The 2002 SERMP Assessment Reports include: Ecosystems—natures diversity. Hobart: National Oceans Office; 2002;
- Resources—using the ocean. Hobart: National Oceans Office; 2002;
- Resources—Macquarie Island's picture. Hobart: National Oceans Office; 2002;
- The right bait: social contributions of tourism fishing charter operations to St Helens, Tasmania. Hobart: National Oceans Office and the Bureau of Rural Sciences; 2002;
- Marine matters: social contributions of marine uses to communities in the South East Region of Australia. Hobart: National Oceans Office; 2002;
- Marine matters: atlas of marine activities and coastal communities in Australia's South East Marine Region. Hobart: National Oceans Office; 2002;
- Non-market economic values and the South East Marine Region. Prepared by Hassall and Associates Pty Ltd. for the National Oceans Office; 2002;
- Pressures on the uses in the South East Marine Region. Prepared by DCafe for the National Oceans Office; 2002;
- Impact of aquaculture. Hobart: National Oceans Office; 2002;
- Impacts of petroleum. Hobart: National Oceans Office; 2002;
- Impacts of shipping. Hobart: National Oceans Office; 2002;
- Risk assessment for environmental management of the marine environment. Hobart: National Oceans Office; 2002;
- Impact from the ocean/land interface. Hobart: National Oceans Office; 2002;
- Technical review of impacts matrices: final report. Hobart: National Oceans Office; 2002;
- Communities—connecting with the ocean. Hobart: National Oceans Office; 2002;
- Sea country—an indigenous perspective. Hobart: National Oceans Office; 2002;
- Ocean management—the legal framework. Hobart: National Oceans Office; 2002.
- [47] National Oceans Office. A summary paper: glimpses of the South East Marine Region. Hobart: National Oceans Office; 2002. p. 8.
- [48] National Oceans Office. Ocean management—the legal framework. The South East Regional Marine Plan Assessment Reports, National Oceans Office, 2002, p. 98.
- [49] Liberal Party of Australia. Environment Policy 1998 Federal Election. Canberra: Liberal Party of Australia; 1998.
- [50] See press releases from 1999–2003 at IUCN, <http://www.iucn.org>; WWF, <http://www.panda.org>; Australian Conservation Foundation, <http://www.acfonline.org.au>; Australian Marine Conservation Society, <http://www.amcs.org.au>, Humane Society

- International, <http://www.hsi.org.au>; Greenpeace–Australia, <http://www.greenpeace.org.au>; and MCCN, <http://www.mccn.org.au>.
- [51] Tarte D. Australia's Oceans Policy. Australian Marine Conservation Society Bulletin 1999;20(3).
- [52] Smyth C, Prideaux M, Davey K, Grady M. Oceans Eleven. Victoria: Australian Conservation Foundation; 2003.
- [53] Foster E, Haward M, Coffen-Smout S. Implementing integrated oceans management: Australia's South East Regional Marine Plan (SERMP) and Canada's eastern Scotian shelf integrated management (ESSIM) initiative. *Marine Policy* 2005;29(1):5.
- [54] National Oceans Office. Draft South East Regional Marine Plan. Hobart: National Oceans Office; 2003.
- [55] Kemp D. Minister for Environment and Heritage, Howard Government achieves world first in sustainable oceans management. Media Release, National Oceans Office, 18 July 2003.
- [56] National Oceans Office. Oceans policy: principles and processes. Hobart: National Oceans Office; 2003.
- [57] National Oceans Office. Executive summary. Draft South East Regional Marine Plan, p. 2.
- [58] National Oceans Office. Draft South East Regional Marine Plan, p. 3.
- [59] National Oceans Office. Draft South East Regional Marine Plan. Hobart: National Oceans Office; 2003. p. 35–48.
- [60] National Oceans Office. Oceans policy: principles and processes, p. 9.
- [61] National Oceans Office. Draft South East Regional Marine Plan submissions report, January 2004. Available online: <http://www.oceans.gov.au>.
- [62] National Oceans Office. Draft South East Regional Marine Plan submissions report, January 2004, p. 7. Available online: <http://www.oceans.gov.au>.
- [63] National Oceans Office. Draft South East Regional Marine Plan submissions report, January 2004, p. 8. Available online: <http://www.oceans.gov.au>. This response rate is typical of stakeholder responses in the consultation process held throughout AOP development. In March 1997, following the release of the consultation paper Australia's oceans—New Horizons, the Marine and Coastal Community Network (MCCN) was asked by the Commonwealth to develop a questionnaire to distribute along with the consultation paper. Over 8131 people were contacted by MCCN to answer the questionnaire and only 896 responded. In another consultation process in late 1997, stakeholders were asked to write submissions to the consultation paper. 4000 copies of the consultation paper were distributed and only 63 written responses were returned. See Wescott G. The development and initial implementation of Australia's 'integrated and comprehensive' Oceans Policy. *Ocean and Coastal Management* 2000;43:863.
- [64] National Oceans Office. Draft South East Regional Marine Plan submissions report, January 2004, p. 12. Available online: <http://www.oceans.gov.au>.
- [65] Kemp D. Minister for the Environment and Heritage, South East Regional Marine Plan launch. Media Release, Department of the Environment and Heritage, 21 May 2004.
- [66] National Oceans Office. South East Regional Marine Plan: implementing Australia's Oceans Policy in the South East Marine Region. Hobart: National Oceans Office; 2004. p. 17.
- [67] WWF. Government making progress towards satisfactory South East Regional Marine Plan, <http://www.wwf.org.au>, 21 May 2004.
- [68] Smith B. Coastal plan slammed as too timid. Age 22 May 2004.
- [69] Australian Marine Conservation Society. Plan for ocean protection needs more. Media Release, 21 May 2004.
- [70] Davey K. Protecting Australia's deep south. Australian Marine Conservation Society, [http://www/amcs.org.au/campaigns/living\\_oceans/](http://www/amcs.org.au/campaigns/living_oceans/), 25 May 2004.
- [71] Australian Seafood Industry Council. Seafood industry acknowledges launch of South East Regional Marine Plan, <http://www.asic.org.au/news/>, 21 May 2004.
- [72] Personal communication with Department of Agriculture, Fisheries and Forestry, 6 December 2004.
- [73] Personal communication with National Oceans Office employee, 7 December 2004.
- [74] National Oceans Office. Northern Snapshot. Hobart: AGPS; 2003.
- [75] National Oceans Office. Annual report. Hobart: AGPS; 2003.
- [76] Personal communication with National Oceans Office employee, 7 December 2004.