

Commonwealth Fisheries Marine Mammal Working Group

Terms of Reference

1. The Commonwealth Fisheries Marine Mammal Working Group is to provide advice to AFMA on marine mammal mitigation arrangements for Commonwealth managed fisheries. In particular, to support the:
 - i) identification of marine mammal bycatch issues;
 - ii) development and review of marine mammal management strategies for AFMA managed fisheries;
 - iii) development and review of fishery and/or vessel specific management arrangements, that may include but are not limited to:
 - bycatch rates and triggers;
 - vessel management plans;
 - spatial and temporal closures;
 - industry codes of practice; and
 - the development, trial and evaluation of any proposed marine mammal bycatch mitigation measures.
2. In undertaking its tasks the Commonwealth Fisheries Marine Mammal Working Group must take into account AFMA's legislative objectives under the *Fisheries Management Act 1991* and the *Environment Protection and Biodiversity Conservation Act 1999*.

Commonwealth Fisheries Marine Mammal Working Group

Operating Procedures

1. Membership

1. The CFMMWG will be officiated by an independent Chair. It is proposed that the core membership group will consist of the following:
 - Scientific/mitigation member (minimum 2)
 - Industry (1)
 - Conservation Member (1)
 - Recreational fishing member (1)
 - Department of Environment (1)
 - AFMA (1)
 - Department of Agriculture (1)
- Supplementary participants will be invited on an as needs basis depending on the fishery and/or issues being discussed.
- Expressions of interest will be sought publically and/or targeted from nominees considered to have relevant expertise. The AFMA CEO appoints the CFMMWG Chair. All other members will be appointed by the AFMA Chief Executive Officer in consultation with the CFMMWG Chair.
- A selection panel will be formed by AFMA to recommend possible members to the CEO. The panel will comprise up to four persons including AFMA, the Chair of the CFMMWG, the fishing industry, and an independent person.

1.2 CFMMWG Chair

Role

The CFMMWG Chair has a key role in ensuring thorough and effective discussion about marine mammal interactions and mitigation consistent with the CFMMWG ToR. The Chair is the primary communication link between the CFMMWG and AFMA.

Criteria

- Have good national standing in natural resource management, preferably in a field relevant to fisheries;
- Be independent of commercial or other interests with Commonwealth fisheries, including industry association(s);
- Be able to identify strategic goals and objectives, and facilitate their achievement through the CFMMWG process;
- Have a demonstrated capacity to chair meetings, including a sound understanding of the meeting procedures and practices necessary for the efficient conduct of meetings; and
- Not be a member of the AFMA Commission.

1.3 Scientific/Mitigation Members

Role

The role of a scientific/mitigation member is to:

- Contribute impartial scientific and mitigation expertise to CFMMWG deliberations;
- Contribute to and conduct peer review of data, information and analyses tabled at CFMMWG meetings; and
- Provide advice to the CFMMWG on the latest scientific issues and advancements in mitigation of relevance to Commonwealth fisheries.

Criteria

- Have seniority and good standing in a relevant scientific or mitigation discipline (e.g. ecological, behavioural, fisheries science);
- Have experience in liaison with major Commonwealth and/or State research organisations at a high level, and/or
- Have at-sea experience in the use of mitigation equipment and its design and deployment

2.4 Conservation Member

Role

The role of the conservation member is to:

- Contribute ecological knowledge and expertise to CFMMWG deliberations;
- Advise the CFMMWG on environmental or conservation developments of relevance to Commonwealth fisheries; and
- Advise on any implications that CFMMWG deliberations and recommendations may have in relation to ecological considerations.

Criteria

- Preferably qualifications, ecological knowledge and experience of relevance to fisheries or natural resource management;
- The ability to contribute their knowledge and expertise to CFMMWG discussion; and
- Have the confidence and authority of their stakeholder group to undertake their functions as a CFMMWG Member and be prepared to consult with members of their stakeholder group as necessary to effectively contribute to CFMMWG discussions.

1.4 Recreational/Charter Fishing Scientific Member

Role

The role of the recreational fishing scientific member is to:

- Contribute scientific recreational/charter fishing knowledge and expertise to CFMMWG deliberations;
- Advise the CFMMWG on recreational/charter fishing scientific developments of relevance to Commonwealth fisheries; and
- Advise on any implications that CFMMWG deliberations and recommendations may have in relation to recreational/charter fishing considerations.

Criteria

- Recreational/charter fishing knowledge relevant to Commonwealth fisheries;
- The ability to contribute their knowledge and expertise to CFMMWG discussion; and
- Have the confidence and authority of their stakeholder group to undertake their functions as a CFMMWG Member and be prepared to consult with members of their stakeholder group as necessary to effectively contribute to CFMMWG discussions.

1.5 Industry Member

Role

- The role of the industry member is to contribute to CFMMWG deliberations knowledge and experience relevant to the Commonwealth fishing industry.

Criteria

- The ability to contribute to CFMMWG discussions their knowledge and experience relevant to Commonwealth fisheries and fishing industry in general; and
- Have the confidence and authority of their stakeholder group to undertake their functions as a CFMMWG Member and be prepared to consult with members of their stakeholder group as necessary to effectively contribute to CMWWG discussions.

2. Confidentiality and non-disclosure

All information received from AFMA, and not otherwise publicly available, is confidential. CFMMWG members receive confidential information as agents of AFMA and are therefore also required to follow AFMA's instructions as to its use. These instructions include taking measures for the prevention of loss, theft, corruption and unapproved copying or other duplication of documents. CFMMWG members must seek from and be provided with authorisation by AFMA's appropriate delegate before information can be released. AFMA information includes, but is not limited to, catch and effort data, research, and personal information in original or aggregated form.

CFMMWG members must keep discussions and deliberations confidential unless otherwise agreed with the Chair.

1.1. Public comment

CFMMWG members, as members of the community, have the right to make public comment¹ and to enter into public debate on political issues. However, there are some circumstances in which public comment is inappropriate, in particular where there is an implication that the public comment, although made in a private capacity, is in some way an official comment of the CFMMWG. CFMMWG members should avoid making public statements about matters relating to the CFMMWG unless it is made clear that they are speaking as a private citizen. Further, CFMMWG members are required to maintain confidentiality of CFMMWG discussions and deliberations unless otherwise agreed to in advance with the Chair.

1.2. Conflict of Interest

CFMMWG members may have conflicts of interest (actual or just perceived) during the course of their duties. All interests in the matter being considered, not limited to pecuniary gain, must be declared. If there is any doubt as to the relevance of an interest, a CFMMWG member must declare it so that any potential conflicts can be considered. The CFMMWG is made up of relevant experts, so there is an expectation that members, in maintaining their expertise, may have some interest relevant to the fishery. Having knowledge or a point of view about the fishery or the applicable science does not of itself create a conflict.

Types of interests that members must declare include but are not limited to:

- A financial or economic interest such as the ownership or control of concessions, businesses or assets related to the fishery
- Any employment by a business or organisation relevant to the fishery
- Any membership of a group or organisation relevant to the fishery
- Projects or campaigns that the member or the member's organisation/group has or has planned that are relevant to the fishery
- A family or close associate having such an interest which may or might reasonably appear to be thought by an observer to impair the ability of the member to perform their duties properly in relation to the matter being considered.

¹ Public comment includes public speaking engagements, comments on radio, television, any social media and expressing views in letters to newspapers or in books, journals, webpages or notices or where it might be expected that the publication or circulation of the comment would spread to the community at large.

Determining if a conflict of interest exists should be undertaken by the CFMMWG on a case by case basis and may evolve or become evident during a discussion. The process for declaring and dealing with a conflict of interest is outlined in the section below.

1.3. Managing conflicts of interest

To ensure the smooth operation of a meeting, it is suggested that the CFMMWG deals with interests and conflicts of interest prior to or at the start of each meeting. Whether it is done prior to or at the start of a meeting, it must be done for every meeting. Papers and agendas are typically circulated prior to any meeting and members should be able to make a decision as to the need to disclose any relevant interest and its nature prior to the meeting. Any interests should be disclosed prior to the item relevant to the interest being discussed. The other CFMMWG members should then discuss the nature of the interest, decide if there is any conflict of interest, and what action should be taken when that item is discussed. However, common sense should be used for determining if any conflict of interest exists.

It is important to recognise that conflicts may also arise during the course of discussions and if a member subsequently becomes aware of a relevant interest during the course of a discussion they must immediately disclose the interest and the CFMMWG must consider how the disclosure is to be dealt with at that point.

If the CFMMWG decides at any time that a conflict of interest exists and that this conflict is likely to interfere with the CFMMWG's consideration of a particular issue/s, the CFMMWG may:

- decide that the member who has disclosed his/her conflict of interest should participate in the discussions concerning the issue but not in formalising the advice/recommendations (in such cases, the member should be asked to retire from the meeting while the decision about their participation is made); or
- ask to hear the member's views on the issue and then require him/her to retire from the meeting while it is discussed by the other members and the advice/recommendation is formalised.

If the CFMMWG decides that a general conflict of interest exists, the CFMMWG should take a more inclusive approach in view of the role and function of CFMMWG in terms of making use of the expertise of members and allow the members to participate in the discussion and recommendation. As a guide, it is suggested that members with a conflict of interest should be excluded from participating in the discussion and recommendation only if the matter being considered can have a direct benefit to the individual member or member's business/ organisation/ group rather than all people/ businesses/ organisations/ groups equally.

If the CFMMWG cannot agree as to whether a conflict of interest exists or on the appropriate action to be taken, it is the responsibility of the Chair to decide on the appropriate course of action.

It is the Chair's responsibility to ensure that the minutes/report of the meeting record the declared interests of members and reflects the decision(s) in regard to any conflict(s) of interest, and that these are put into effect at the appropriate point(s) in the meeting.