



A FEDERAL REGULATOR OF FISH FARMS

To ensure consistent, robust, and transparent regulation of Australia's rapidly growing fish farm industries

The Australian Greens have a plan for:

1. A moratorium on salmon farm expansions in Tasmania until a federal regulator has been established
2. A single federal regulator for Australia's fish farming industries
3. A National Environmental Protection Agency to enforce federal regulations
4. A tripartite working group of Government, industry, and stakeholders to advise the federal regulator

OVERVIEW

Aquaculture is currently Australia's fastest growing primary industry. This growth is mostly due to an unprecedented expansion of fish farms in Tasmania. But this largely unchecked growth is coming at a cost to our natural environment. Regulatory failure in Tasmania has resulted in pollution and coastal communities being shut out of decision making. Only the Greens have a plan to responsibly balance the needs of fish farming and the environment.

THE RAPID GROWTH OF FISH FARMING IN AUSTRALIAN WATERS

According to the Department of Agriculture and Water Resources¹, from 2006-07 to 2016-17:

- The value of aquaculture production increased by 32 per cent in real terms, largely reflecting expansion of the salmonid industry;
- The value of farmed salmonid production increased by 105 per cent in real terms to \$756 million, driven by increased salmonid production volume, which doubled to 52,799 tonnes between 2006-07 and 2016-17.

In 2016-17, salmonids accounted for around 25 per cent of Australia's fisheries and aquaculture GVP (gross value of production).

In Tasmania, salmon farming is quickly taking over many of the island's inshore channels, harbours, and estuaries. Having tripled in size over the past decade, the Tasmanian salmon farming industry has plans to double again by 2030².

¹ Department of Agriculture and Water Resources 2018, *Fisheries and aquaculture statistics: Production*, Australian Government, Canberra, viewed 23 January 2019, <http://www.agriculture.gov.au/abares/research-topics/fisheries/fisheries-and-aquaculture-statistics/production-2017>

² Salmon G. 2018, *How salmon farming pushed Macquarie Harbour to the limit*, ABC News, Hobart, viewed 24 January 2019, <https://www.abc.net.au/news/2017-06-08/how-salmon-farming-got-to-push-macquarie-harbour-to-the-limit/8349342>

A MORATORIUM ON SALMON FARM EXPANSIONS IN TASMANIA

In Tasmania, salmon farms are expanding at an unprecedented rate, often without any transparency or accountability to the public. These expansions are negatively affecting other aquaculture industries and operations downstream of them, and recreational fishing in the proximity. They are also killing off native habitats and marine life or, in the cases of seal culls³, native marine life are being killed off by or for fish farms. Furthermore, salmon farms are creating navigational hazards - from both moored structures and loose debris - for watercraft, and a loss of amenity (and sometimes income and asset value) for local residents, tourism operators, and tourists.

The salmon farm industry in Tasmania has also been plagued by poor governance, disregard of science and/or natural values (including World Heritage values), reinstatement of long-inoperative “zombie leases” without any assessments or consultation, losses of Aquaculture Stewardship Council certifications, privatisation of vast tracts of public waters, government documents being drafted by private interests⁴, a state Environment Protection Authority (EPA) that cannot or will not act⁵, and the conscientious resignations of scientists from Tasmania’s Marine Farming Review Panel⁶.

As a result of these community concerns and many more, Tasmanians have overwhelmingly called for a moratorium on salmon farms in their state⁷, and the Greens have listened. Our plan calls on the Tasmanian Government to put in place a moratorium on all salmon farm expansions until a federal regulator is established to provide consistent, effective and transparent laws and oversight of fish farming and aquaculture in Australia.

NEW ENVIRONMENTAL LAWS

The Environment Protection and Biodiversity Conservation Act 1999 (the EPBC Act) is last century legislation that is failing to keep up with this century’s environmental landscapes and challenges.

There are numerous examples of where the EPBC Act triggers have been ineffective in capturing legitimate environmental concerns regarding fish farm developments and expansions in and around protected environments, and impacts on migratory and threatened species. These include developments and expansions in Macquarie Harbour, bordering the Tasmanian Wilderness World Heritage Area (TWWHA), and the reinstatement of long-dormant zombie leases in Norfolk Bay, near sanctuaries with both protected and migratory species, to relocate diseased fish.

³ Zwartz & Dunlevie 2018, *Seal response at Tasmanian aquaculture sites ‘out of proportion’, advocates say*, ABC News, Hobart, viewed 25 March 2019,

<https://www.abc.net.au/news/2018-10-25/tasmania-salmon-farm-seal-response-too-much-advocates-say/10422294>

⁴ Woodruff, R. 2018, *Public Submission for (3) Marine Farming Development Plans*, *Tasmanian Greens*, Hobart, viewed 25 February 2018,

<https://tasmps.greens.org.au/sites/default/files/media/Tasmanian%20Greens%20submission%20on%20Storm%20Bay%20282018-1-17%29.pdf>

⁵ Blackwood, F. 2018, *Fish farmer Petuna to remove ASC logo from products sourced from Macquarie Harbour*, ABC News, Hobart, viewed 11 March 2019, <https://www.abc.net.au/news/2018-10-13/petuna-to-remove-asc-logo-from-products/10371532>

⁶ Humphries, A. 2019, *Salmon industry panel ‘inherently compromised’, experts told minister in leaked resignation letter*, ABC News, Hobart, viewed 22 March 2019,

<https://www.abc.net.au/news/2019-02-25/tas-salmon-experts-letter-reveals-reasons-for-quitting-board/10844520>

⁷ Baker, G. 2018, *Tasmanian Alliance for Marine Protection issues five demands on industrial fish farming*, *The Mercury*, Hobart, viewed 23 January 2019,

<https://www.abc.net.au/news/2017-06-08/how-salmon-farming-got-to-push-macquarie-harbour-to-the-limit/8349342>

Rather than continue a band-aid approach to fixing the EPBC Act, which is a relic of the Howard era, the Greens' plan is for a new generation of fit-for-purpose environmental laws that actually protect our shared natural resources, our wild places, and our threatened species.

FEDERAL REGULATION OF FISH FARMS

Many countries with large and intensive fish farm industries have a federal regulator to oversee national regulation and compliance within their industries. These include Chile, Denmark, New Zealand, Norway, United Kingdom, United States, and Canada.

British Columbia's (B.C.) move to federal laws and regulations resulted from a court case that successfully prosecuted an argument that the Government of Canada should be responsible for renewing aquaculture tenures and licences, not provinces (which are similar to Australian states). In his reasons for judgement, Justice Hinkson found⁸:

The absence of sufficient legislation to regulate fish farms in British Columbia could well be more harmful to the public than the perpetuation of the impugned legislation [that delegates responsibility to the provinces].

The Commonwealth has significant and primary capacity to make laws concerning the environment⁹. Although the Commonwealth has traditionally deferred responsibility for fisheries within Australian territorial waters (coastal and river waters) through section 51 of the Constitution, this responsibility, as found by a Senate Committee in 1999¹⁰ and the Australian Panel of Experts on Environmental Law (APEEL) in 2017¹¹, is a concurrent power that can be overridden by the Commonwealth.

Under the Greens' plan for federal regulation of fish farms, the Commonwealth would create new environmental legislation, and work with states and territories to form agreements on the management of fisheries within Australian territorial waters that comply with these new 21st century laws. These agreements will also attract federal funding, to ensure state agencies are adequately resourced to meet the agreements. If, however, a state or territory fails to meet the obligations of its agreement with the Commonwealth, and compliance with federal laws, the Commonwealth will intervene and assume full responsibility for compliance with relevant agreements and legislation.

A NATIONAL ENVIRONMENTAL PROTECTION AUTHORITY

The Greens' plan is for a federal regulator of fish farms. This will be a National Environmental Protection Authority (NEPA) with real teeth to enforce the law, and provide independent expert advice at arm's length from the influence of politicians and the big business lobby¹².

The NEPA will function much like the Scottish Environment Protection Agency (SEPA), which is responsible for regulating aquaculture in Scotland, and has far greater monitoring and

⁸ Hinkson, C. 2009, *Morton v. British Columbia (Agriculture and Lands)*, Supreme Court of British Columbia, Vancouver, viewed 21 January 2019, <https://www.courts.gov.bc.ca/jdb-txt/SC/09/01/2009BCSC0136err1.htm>

⁹ APEEL 2017, *Environmental Governance (Technical Paper 2)*, Australian Panel of Experts on Environmental Law, Melbourne, viewed 22 March 2019, http://apeel.org.au/s/APEEL_Environmental_governance-9688.pdf

¹⁰ Commonwealth 1999, *Commonwealth Environment Powers: Report of the Senate Environment, Communications, Information Technology and the Arts Reference Committee* (Parliamentary Paper No. 133 (1999) ix.), Parliament of the Commonwealth of Australia, Canberra

¹¹ APEEL 2017, *Environmental Governance (Technical Paper 2)*, Australian Panel of Experts on Environmental Law, Melbourne, viewed 22 March 2019, http://apeel.org.au/s/APEEL_Environmental_governance-9688.pdf

¹² Hanson-Young, S. 2019, *Greens Environment Commission would fund and track threatened species recovery*, Australian Greens, Adelaide, viewed 21 March 2019,

<https://sarah-hanson-young.greensmps.org.au/articles/greens-push-environmental-protection-top-priority-next-government>

enforcement powers than Australia's state and territory Environment Protection Agencies do. The NEPA will be responsible for three broad policy functions:

1. marine farming regulation (including an industry Code of Practice);
2. marine resilience regulation;
3. marine engagement and stewardship.

The first job of the NEPA regarding aquaculture will be to develop and implement a national regulatory system for fish farms and aquaculture in Australia. This would include a national set of marine biosecurity protocols to protect our environment and marine resources, and a Code of Practice to provide guidance on how individual marine farming operations can achieve sustainability.

In most Australian states, conservation, farming, and harvesting of publicly owned forests is managed by independent statutory authorities at a state level, each with its own industry Code of Conduct. However, having these natural resource operations regulated at a state level pits state against state in the marketplace, which leads to local and short-term economic values being prioritised over national and long-term sustainability needs.

Once national legislation and regulation are in place, an important role of the NEPA will be a national auditing function for states and territories, with consistent benchmarking for fish farms that will provide:

1. marine farming planning and governance review;
2. precautionary baseline assessments conducted before development, and funded by industry, which will include the consideration of values (tangible & intangible) identified through stakeholder engagement (see 'A tripartite working group' below);
3. farm-scale assessments of site values, water quality, and sensitive receiving environments, with ongoing monitoring and public reporting.

The NEPA will also publish the findings of its investigations, for public transparency, and be able to undertake enforcement actions, such as directing companies to comply through orders as well as issuing penalties and revoking licenses, permits, and/or leases.

As identified above, a critical factor in the success of the NEPA regarding aquaculture, and regulation of the industry, will be stakeholder engagement. This will be where a tripartite working group will help with public transparency, accountability, and social licence.

A TRIPARTITE WORKING GROUP

The Tripartite Working Group (TWG) will identify risks, seek resolutions, and provide advice on regulatory considerations and development applications.

Under the Greens' plan, this specially formed TWG will be an advisory group on aquaculture to the National Environmental Protection Authority (NEPA). It would be similar in structure and mandate to one formed by the Scottish Executive Environment and Rural Affairs Department (SEERAD) to inform development of Scotland's Strategic Framework for Aquaculture¹³, and address ongoing problems common to salmon farming and wild salmon fisheries - seeking solutions for a sustainable future in both sectors.

¹³ Marine and Fisheries 2009, *A Fresh Start: The renewed Strategic Framework for Scottish Aquaculture*, Scottish Government, Edinburgh, viewed 22 January 2019, <https://www.gov.scot/publications/fresh-start-renewed-strategic-framework-scottish-aquaculture/pages/9/>

The TWG, chaired by a senior officer of NEPA, will have membership consisting of government, industry, and stakeholder (including environmental NGOs and community groups) representatives.



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