

Southern Bluefin Tuna (SBT) Association submission to the Independent Review of DCVS Legislation Draft Phase 1 Safety Report

28 November 2022

Why we oppose changing the current Grandfathering provisions

In the AMSA consultation on the DCV (Independent) Report – we have only one strong issue – grandfathering. This also leads us to oppose the end of State vetos.

We have not written direct to the AMSA Board before – and only write to government Agencies where there is a substantial question to address. Statutory Agencies have a difficult enough job.

Our experience is that in the last decade, AMSA has done a very good job in all the challenges of adopting the National System, deregulation where justified, risk management in general, and cost management. They have taken an ***evidence-based approach*** as a statutory body – with a very diverse client base, and range of challenges.

We also ensure we track all AMSA issues, take part in AMSA’s initiatives on consultation, and adjust quickly, even when we disagree with changes – like some of those in MA505. This is because the SA tuna industry prioritises safety above everything else – including fisheries management. This is reflected in the Incident Reports – despite Class 3 Fishing Vessels being 33% of DCVs – well above the national average.

Why we strongly oppose the suggested changes in grandfathering being made

The national peak seafood body concludes that changing grandfathering would be a “disaster” for the industry – and we agree. A summary of our reasons is:

- (1) ***Evidence***: The seafood industry is now an evidence-based industry. There is no evidence that grandfathering has created a widespread problem in the fishing industry. Note: Fishing vessels are only one-third of Australia’s 16,500 DCV vessels. There are some fatalities (and injuries) created by particular vessel weaknesses in particular fisheries – but these can be addressed without severely penalising the overwhelming part of industry operating very safely under grandfathering provisions.
- (2) ***Mental health in the fishing industry***: A major Deakin University study for Seafood Industry Australia (SIA) showed levels of “high” and “very high” psychological distress among fishers, which are almost double those reported by the general public. The study found that this high rate has led to high rates of suicide among fishers.

Grandfathering of boats and certificates is a core part of a fisher family stability. Fishery management changes can be stressful – and often hard for a fisher to cope with. However, their boat and their credentials are the very stable thing they most understand and depend on. AMSA and government in general changed their world in 2013 with the National System but underpinned stability with grandfathering guarantees. Again, it was changed in 2018 to make it more flexible on vessels. To now change it again – this time **breaking the 2013 guarantee** – would also guarantee a major level of new, and unjustified stress. Phasing the changes probably increases the stress.

We note that the DCV Report worsens the stress situation by the use of arbitrary words in Finding 3 such as “...to the extent the impact on safety would substantially improve safety outcomes.”

- (3) ***The 2013 National System Agreement was the guarantee of government:*** We agree that government can never say that an Agreement should never be reversed. We can appreciate that modifications may be desirable from time to time – but not total reversal. Again, phasing out does not address this fundamental loss of trust in an Agreement. The industry would see this as a **major breach of faith by government**.
- (4) ***Comparisons with other industries:*** We can't find any other comparable industry where basic qualifications have been completely changed. None of the DCV (Independent) Report, Senate Report or Productivity Commission have given any examples – either land or water.
- (5) ***Current supply of new trained work force into the industry:*** Despite the phasing proposal, large numbers of currently qualified crews would not choose to renew their basic qualifications. This is at the very time that the (Seafood) Registered Training Organisations (RTOs) are training record entrants and upskilling. The problem is that large numbers of those graduating are going to new rapidly expanding maritime industries such as windfarms, offshore oil/gas operations, and marine aquaculture itself. It is totally ***unrealistic*** to suggest that Australia could even replace the numbers who would leave, let alone service the expanding industries competing for skilled workers.

Perversely, instead of the end of grandfathering leading to greater safety, it would logically lead to less experienced crew and a greater safety risk.

- (6) ***The National System was about recognising safe operations:*** The National System was about ending the administrative duplication between States, avoiding circumventing rules by registering in different jurisdictions and generally improving safety. It was never about dragging down proven safety operations and certificates by introducing new regulations to address problem operations. For example, please look at **where** the serious incidents and fatalities have been – and address those

specific problems rather than create major operational and financial problems in proven safe DCV sectors.

(7) *Unrealistic to assume the Commonwealth Government (or State Governments) will satisfactorily compensate loss of boats and certificates through a specific Scheme and/or the previous boat-building subsidy:*

We are disappointed in a process which can make such a suggestion without in any way quantifying the cost and assessing whether there is boat-building capacity in Australia to achieve re-introduction of the subsidy.

(8) *Isn't the transitional program making a major contribution?* In 2018, in MO503, AMSA introduced an alternative set of safety standards and survey process that provided an acceptable safety level without requiring full compliance to NSCV. The program has effectively enabled about 5% of the existing fleet to be upgraded each year. AMSA estimates (projections) that 83% of the survey fleet will be either transitional or new by 2029.

Where is the evidence to phase out grandfathering?

There have been three government inquiries into AMSA's performance since 2017 - by the Productivity Commission, by a Senate Committee and now a DCV Panel draft Report. All have put some emphasis on grandfathering.

The inquiries have also emphasised the four tragic fatality events in WA and Queensland, and the subsequent Coronial Inquiries. The problem is that none of those Inquiries has produced any ***evidence*** of specific problems created by grandfathering – they have all proceeded to assume that the concept must produce unsafe outcomes. We totally agree that there are issues in specific operations in specific fisheries – but statutory responses need to be targeted, not all-encompassing.

The Inquiries have also proceeded to apply the same solution to a very diverse range of ***regional*** situations – with very different fisheries, and inevitably different risk profiles. This is not what was intended by the National System.

The blanket approach in the current DCV Report is equivalent to saying that because we have a National Emergency/Disaster Framework – that it follows that levee banks are required where it has never flooded, in the same way that they may be required in Northern NSW.

We recognise that the three recent reports, including the current Draft Report, note that grandfathering would be phased out, and applied initially only to high risk situations. What we are requesting is that the need for any changes, let alone phasing out, needs to be targeted and ***evidence based and not applied through an end to grandfathering.***

Our requests

We recommend a process which is normally followed to produce ***good public policy:***

- (1) That the grandfathering issue is shifted to Phase 2 of the DCV Inquiry and that before the draft Report on the grandfathering sections is then finalised, it produces actual evidence on *fishing and aquaculture*:
 - a. The extent of grandfathering of both boats and qualifications.
 - b. Exactly where grandfathering has proved a safety problem.
 - c. Where fishing/aquaculture boats/certificates fit in the DCV total incidents and risk profiles.
- (2) That the analysis in (1) clearly identifies any regional and operating differences between classes of vessels.
- (3) That the analysis estimates the actual cost of phasing out grandfathering – rather than general statements on what financial measures might be applied.
- (4) Recognising that there is a serious shortage of formally (certificated) qualified personnel for fishing boats – how the industry can overcome this if at the same time there are major (inevitable) departures from the industry.

Yours sincerely



Brian Jeffriess
CEO – Australian SBT Industry Association
PO Box 1146 Port Lincoln SA 5606
Ph: 0419840299 Email: ceo@asbtia.org