

FELA SUBMISSION TO THE NATIONAL FISHERIES POLICY

FELA

The primary purpose of the (Fiji) Environmental Law Association (FELA) is to promote the sustainable management of natural resources and the protection of the environment through law. FELA was formed with the support and assistance of the Oceania Office of the International Union for the Conservation of Nature (IUCN) as a result of concerns that many in the legal community had about the apparent lack of general awareness on issues pertaining to the environment. Despite Fiji having a wide range of environmental laws, it was generally accepted that many were neither effectively implemented nor enforced. FELA seeks to remedy this shortcoming.

One of FELA's main program goals is to engage actively in policy and law reform processes to promote improved environmental outcomes especially in fisheries and extractive industries. Over the past 6 years, FELA has been funded by the David & Lucile Packard Foundation; a US based private foundation, primarily to contribute to the development of coastal fisheries management by supporting policy and law reform discussion papers for coastal fisheries regulation, capacity building, strengthening of fisheries enforcement laws and the provision of legal advice for breaches of coastal management laws.

INTRODUCTION

FELA congratulates the Government of Fiji and the Ministry of Fisheries for their work in progressing the National Fisheries Policy (**the Policy**) and welcomes the opportunity to make written submissions in relation to the development of the Policy.

Given FELA's specific expertise, FELA's submissions are largely focussed on policy and law issues related to inshore fisheries.

This submission provides a high level analysis of key law and policy issues. In addition to this document, FELA's submission comprises the attached paper titled "Regulating Fiji's Coastal Fisheries – Policy and Law Discussion Paper" (**FELA's Discussion Paper**). This paper outlines in more detail FELA's policy and law recommendations for strengthening inshore fisheries management in Fiji.

GENERAL COMMENTS

- In general terms, FELA considers fisheries management policy and law needs to shift from a focus on resources management to a focus on healthy ecosystems.
- Fiji needs a comprehensive policy foundation for coastal and oceans management. Accordingly, Fiji should investigate developing an Integrated Oceans Policy that operates under the Green Growth Framework and above the National Fisheries

Policy. (Please refer to section 4.1 and Recommendation 1 of FELA's Discussion Paper.)

- Much work has been undertaken in developing Fiji's Implementation Plan for the Melanesian Spearhead Group Roadmap on Sustainable Inshore Fisheries 2014-2023 (**Implementation Plan for the MSG Roadmap**), which is a well-structured document. The Policy should be integrated more closely with the Implementation Plan for the MSG Roadmap. (Please refer to section 4.1 and Recommendation 2 FELA's Discussion Paper.)
- It is widely accepted that fisheries legislation in Fiji needs to be updated. Further, whilst considerable work has been done to develop the draft Inshore Fisheries Decree (**Proposed Law**), there is a strong case for a comprehensive review of the Proposed Law. (Please refer to section 4.2 and Recommendation 3 of FELA's Discussion Paper.)
- The absence of a comprehensive marine protected areas regime is a key gap in the current fisheries management framework in Fiji. Accordingly, there is also strong case for a separate and comprehensive marine protected areas legislation, that is administered by a separate and independent authority, to be developed. (Please refer to section 4.2.2(e) and Recommendation 3(e) of FELA's Discussion Paper.)
- Governance arrangements must prioritise coastal fisheries and focus on healthy ecosystems rather than resource development. (Please refer to section 4.3 and Recommendation 4 of FELA's Discussion Paper.)

SECTION BY SECTION ANALYSIS

Introduction

- The "Mission" appears to repeat aspects of the vision and principles and therefore may be redundant and could be deleted.
- The introduction could detail how the goals, principles and cross cutting issues were determined to help place it in context with the rest of the document.

Principles

- There is no indication of where the key principles are derived from. Information or references to where the principles were derived from should be included under in this heading or in the introduction.
- Some key principles relevant to fisheries management that have not been included are:
 - Integrated Marine and Coastal Areas Management
 - Marine and coastal protected areas
 - Effective legal and administrative frameworks
 - Best available science
 - Research, data collection and analysis

- Protecting the rights of small scale fishers and community fishing rights owners (CFROs)

(Please refer to Section 2 and Appendix A of FELA's Discussion Paper for further detail.)

Policy Goals

- There should be some reference as to how the goals were determined under this heading or in the introduction.
- The distinction between Policy Goal 1 and Policy Goal 2 is unclear. These two goals appear to heavily overlap as the concept of "Sustainable utilization of fisheries resources" (Policy Goal 1) is similar to "Innovative and sustainable management..." (Policy Goal 2). One possible approach may be for Policy Goal 1 to be amended focus on ensuring healthy ecosystems. Policy Goal 2 could then focus on sustainable management and utilization of fisheries resources.
- Policy Goal 3 should include the word "enforcement" (so that the Goal reads "...effective compliance and enforcement") given that compliance measures may not necessarily include enforcement processes.
- Policy Goal 4 should include the word "equitable" (so that the Goal reads "... fair, equitable, and accountable distribution of benefits") with reference to the distribution of benefits.
- Policy Goal 6 could be better placed as a principle rather than a goal. This is because management plans are more in the nature of tools rather than goals in themselves.

Cross Cutting Issues and Strategies

Some cross cutting issues that have not been addressed in detail include:

- **Impact of land based activities:** Fiji's policy should discuss how the Ministry of Fisheries can contribute to development decisions relevant to coastal and land based development activities given the widely recognised impact of land based activities on marine resources.
- **Maritime and shipping impacts:** Given the wider impact of maritime and shipping impacts (for example, shipwrecks, oil spillage, invasive species and pollution) on the marine environment, there should be focused strategies that foster stronger collaborative efforts between other agencies like the Maritime Safety Authority of Fiji and the Department of Environment to mitigate these impacts.
- **Climate Change:** Whilst climate change is identified as a Key Policy Goal, climate change should also be included as a cross cutting issue, given that it will have extremely far reaching impacts on many sectors of Government.

Policy Goal Tables

Policy Goal 1

The following strategies are recommended under the following Inshore Fisheries issues:

- (i) Over-exploitation of many inshore fisheries resources***

- Develop a program for the drafting, consultation and implementation of a new inshore fisheries legislation
- Ensure that legislative tools and mechanisms are effective in particular:
 - (a) Implement an effective permit and licensing regime, which will involve :
 - (i) Investigating options for transparent, consistent and fair methods for compensating CFRO's
 - (ii) Considering appropriate fees for fishing licences
 - (iii) Investigating the appropriateness of introducing total allowable catch requirements in Fiji and
 - (iv) Maintaining a public register of commercial fishing licences.
- Increase penalties for fisheries offences and introduce a civils sanction regime based on an administrative penalty regime.

(Please refer to Section 4.2 of FELA's Discussion Paper.)

Policy Goal 3

The following strategies are recommended under the following Inshore Fisheries issues :

(i) Outdated legislation for inshore fishing

- Develop a program for the drafting, consultation and implementation of a new inshore fisheries legislation.

(ii) Lack of enforcement and action over contraventions of fisheries regulations

- Consider the development of a dedicated prosecutions unit within the Fisheries Department.
- Establish a memorandum of understanding between the fisheries Department, Police and the Director of Public Prosecutions regarding the process for prosecuting fisheries offences.
- Develop a strategy to address challenges faced by Fish Wardens to boost compliance with fisheries legislation.
- Review and improve administration of fisheries to ensure compliance with the regulatory regime. For example, implementation of permitting and licensing regime in accordance with the *Fisheries Act*.
- Consider innovative ways in which to raise funding to assist with compliance and enforcement.

(Please refer to Section 4.3 of FELA's Discussion Paper.)

Policy Goal 4

The following strategy is recommended under the following issue:

(ii) Standardisation and regulation of the "Goodwill Payment"

- Regularise “goodwill” payments with a view to incorporating a payment to CFRO’s to support the administration of qoliqoli areas and to support CBRM.

(Please refer to Section 4.2.2(a)(i) of FELA’s Discussion Paper.)

Policy Goal 7

The following strategies are recommended under the following Inshore Fisheries issue:

(iii) Profile and attention given to inshore fisheries:

- Increase MCS capacity within the Ministry of Fisheries.
- Increase resource allocation to inshore fisheries.
- Improve interagency coordination and cooperation.

Policy Goal 9

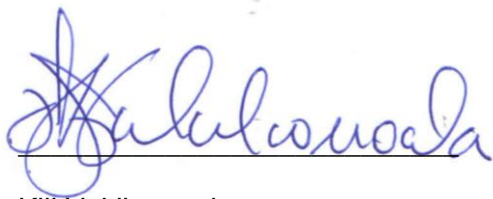
The following strategies are recommended under the following Inshore Fisheries issue:

(i) Meeting international and regional obligations e.g. CITIES, RAMSAR, etc

- Conduct an analysis on the various regional agreements, international convention as and other agreements and guidelines that are applicable to fisheries management.
- Review legislation to determine whether current fisheries laws are current and reflect obligations under the various conventions or agreements.
- Establish strategic collaboration with other governments to enable the effective implementation of fisheries related obligations under the various multilateral environmental agreements.
- Improve coordination and lesson sharing amongst MSG members.
- Develop partnerships with key agencies.

(Please refer to Fiji’s Draft Implementation Plan for MSG Roadmap on Sustainable Inshore Fisheries p 9).

We thank you for the opportunity to contribute to the development of Fiji’s National Fisheries Policy and we look forward to the final document.



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