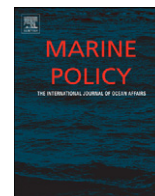




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Marine bioregional plans and implementation issues: Australia's oceans policy process

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ABSTRACT

Australia's Oceans Policy, released in 1998, established a new, national approach for ecosystem-based ocean management that proposed the integration of sectoral and jurisdictional interests. Implementation was to be achieved through innovative institutions delivering ecosystem based management through Regional Marine Plans, now referred to as marine bioregional plans that are legislatively grounded via the Environment Protection and Biodiversity Conservation Act 1999 (Cth). This paper argues that the original focus of the implementation process has changed, reflecting a lack of jurisdictional integration and an environmental focus that prioritises marine protected area management. It examines where the oceans policy stands today and the policy gap in terms of the lofty aspirations of Australia's Oceans Policy and implementation efforts.

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1. Introduction

Australia's oceans have traditionally been managed by different jurisdictions and influenced by often conflicting sectoral interests. The jurisdictions include Commonwealth, State and Territory governments, all of which have established a myriad of ocean and coastal policies [1,2]. The sectors involved in Australian ocean governance vary widely. These include, amongst others, fishing, offshore oil and petroleum mining, environment, Indigenous and tourism industries and groups. Together, the sectoral and jurisdictional interests have reinforced an *ad hoc* Australian ocean and coastal regime that at times is inconsistent and inefficient.

Australia's Oceans Policy was released in 1998 [3,4], fulfilling Australia's commitments to 1982 Law of the Sea Convention (LOSC), the United Nations General Assembly Resolution 5517 and the United Nations Conference on the Environment and Development's (UNCED) Agenda 21 Action Plan. LOSC signatories are obligated to protect and preserve the marine environment within their Exclusive Economic Zones (EEZs) and the United Nations General Assembly Resolution 5517 extends this obligation, requiring signatories to adopt integrated approaches to their EEZ management [5]. Integration can be interpreted as the increased comprehension of policy goals, aggregation of policy inputs and consistency of policy outputs [6] by all sectors and jurisdictions. The Agenda 21 Action Plan, although soft law, also

sought commitment from states to implement integrated and ecosystem approaches to manage their marine environment [7].

The policy aimed to achieve full integration by utilising ecosystem approaches to policy implementation through regional marine plans (RMPs). It claimed to be 'neither solely an environmental protection policy nor solely an economic development policy' [3] but a policy that dealt holistically with all ocean resource issues. Consequently, the policy was highly regarded by the international community for utilising RMPs in the implementation design [8]. Australia was also one of the first coastal countries to establish an action plan with supporting institutional arrangements in response to its international commitments [9].

Although there was a reasonable level of cooperation between different jurisdictions and marine sectors during its development, in September 1998 the policy became a Federal rather than a national initiative. Formal state involvement in the oceans policy process was limited to addressing Commonwealth jurisdiction only from 3 to 200 nautical miles offshore. Consequently, states had little interest in oceans policy decisions, unless it affected their jurisdictional responsibilities, and full jurisdictional integration never eventuated during the policy's implementation.

The Commonwealth reassured the states that this did not mean the end the jurisdictional integration and included state participation in the institutional framework through Australian and New Zealand Conservation Council (ANZECC), later named the Natural Resource Management Ministerial Council. The states' involvement in this institution was limited to environmental issues, rather than all oceans policy issues. New institutions that were established for the implementation process—National Oceans Ministerial Board (NOMB), Nation Oceans Office (NOO),

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Regional Marine Plan Steering Committees and the National Oceans Advisory Group (NOAG)—reflected Commonwealth governance and sectoral involvement.

Fourteen years later and the policy's original intentions are no longer reflected in oceans governance decisions. Changes to the implementation of the oceans policy occurred after its first review [10] that demonstrated that it was too difficult for the Commonwealth government to achieve full integration across sectors and jurisdictions. The government narrowed down its broad focus on oceans to be addressed from an environmental perspective which resulted in a legislative link to the Commonwealth's Environment Protection and Biodiversity Conservation Act (1999) [11] and the restructuring of oceans institutions.

This paper examines the process of change from regional marine planning to the adoption of marine bioregional plans (MBPs) through the Commonwealth's EPBC Act. While the EPBC Act provided legislative grounding for ecosystem based approaches to implementation, the holistic approach to oceans governance established by the oceans policy is no longer a focus for decision makers. This paper argues that the establishment of MBPs was the 'beginning of the end' of the original intentions of the oceans policy, demonstrating a policy gap between policy intentions and the reality of implementation.

2. Regional marine planning to marine bioregional plans

Regional marine plans were seen as a revolutionary method of policy implementation as they were based on large ecosystems which were determined by scientific analysis and natural boundaries rather than constitutional borders [9,12]. The RMPs were identified through the IMCRA Report [13]. This Report was a scientific and technical assessment that identified bioregions based on physical and biological characteristics in Australia's oceans domain for the purposes of regional marine planning. The RMPs were also designed to facilitate cross sectoral and jurisdictional integration while concentrating on one ecosystem. The challenge for policy makers was to achieve this without formal state support and sectoral conflicts.

The implementation of the oceans policy through RMPs was a timely exercise that initially took longer than policy makers anticipated. However, it has been argued elsewhere that Australian policy makers took their time developing a new policy and untried implementation methods as they were conscious of international observers and the possibility of policy learning occurring from the process [14,15]. The timeline that the oceans policy documents outlined was a year behind schedule by the time the first RMP process was officially launched in April 2000. The South East RMP (SERMP) was the only RMP to be completed through the oceans policy process although with only partial integration across sectors and jurisdictions. A review of the oceans policy process was commissioned by the Federal government in August 2002 prior to the final completion of the SERMP.

The Review addressed three themes: progress with the implementation of the policy, including progress with regional marine planning; value for money of expended funding; and effectiveness of institutional/governance arrangements in supporting and implementing the policy. The TFG Review stated that:

"nothing that has happened since the policy was launched has diminished the importance of the policy. It still represents a major Government priority and a world leading approach" [10].

In relation to progressing key aspects of the oceans policy, the review found that 87 per cent of the key initiatives were 'completed', 'proceeding' or a 'continuing activity'. It identified a

number of factors that hindered quicker delivery of the RMP process. Some of these included the complicated nature of regional marine planning; lack of a detailed implementation framework in the policy when it was launched; and the extent of stakeholder consultation required. The 'major impediment' affecting implementation was identified as being the lack of agreement over the policy by the states and Northern Territory.

In October 2005, the government announced that RMPs would be developed through the EPBC Act, Australia's first comprehensive Commonwealth environment legislation. Through section 176 (4) of the Act, RMPs were to be established as marine bioregional plans (MBPs). Under this section of the Act, the Minister for the Environment, Heritage and the Arts must conduct public consultations on draft marine bioregional plans and 'may cooperate' with States and Territories. Importantly, marine protected areas (MPAs) are also declared through the EPBC Act through section 351. The MPAs belong to the National Representative System of Marine Protected Areas (NRSMPAs) which is being implemented through MBPs. The MPAs are selected and established using the Goals and Principles for the Establishment of the National Representative System of Marine Protected Areas in Commonwealth Waters [16]. They are then introduced in the Bioregional Profiles in the MBP process for each marine region [17]. In 2006, an updated version of the IMCRA report was released and re-named the Integrated Marine and Coastal Regionalisation for Australia (replacing the term 'interim'). This report further specified bioregions and became the basis for the development of the NRSMPAs addressed through bioregional marine planning.

The EPBC Act was independently reviewed in October 2009 and the final report suggested a number of changes to bioregional marine planning [18]. It recommended that the term 'bioregional' should be changed to 'regional' to reflect regional administrative boundaries which, ironically, was the original intention of RMPs [18]. The review also acknowledged that there:

"has been a retreat from the original goals of integrated multiple-use planning and management, even within the Commonwealth jurisdiction, and a focus on the subset of matters that are enabled by the current EPBC Act – most notably the development of the National Representative System of Marine Protected Areas.... But it is in effect a single sectoral management measure" [18].

MBPs have replaced RMPs and there are key differences between the two. First, RMPs focused on environmental and economic aspects of the region and on regional objectives. MBPs, on the other hand, focus mainly on environment issues and outline the 'key conservation issues and priorities in each marine region' [19]. Second, there are now fewer regions identified through MBPs and interestingly the Antarctic zone is no longer identified as a region. The original oceans policy documents described RMPs as 'based on large marine ecosystems' and that they would 'propose allocations of ocean resources, delivered principally through existing responsible sectoral management arrangements, using multiple use principles to generate income and employment and to optimise long-term benefits to the community' [3]. This holistic approach to implementing the oceans policy, utilising environmental and economic aspects, proved difficult to accomplish.

In March 2009, a report for the Strategic Policy Institute argued that 'Australia's Oceans Policy was initially hailed as a milestone in oceans management but unfortunately the high expectations for the policy were not realised' [20]. It concluded that the oceans policy is an environmental policy based on MBPs 'which are being developed often without the necessary

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