

Whales and Whaling

Volume 1



WHALES AND WHALING

VOLUME 1

Report of the Independent Inquiry
conducted by
The Hon. Sir Sydney Frost

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INQUIRY INTO WHALES AND WHALING

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1 December 1978

Dear Prime Minister,

I have the honour to present with this letter the Report of the Inquiry into Whales and Whaling which you appointed on 20 March 1978.

As I have noted in the Preface, I was fortunate to receive comprehensive and helpful submissions from many people and organisations interested from various points of view in the conservation of the whale, and the able assistance of the Secretariat provided for me.

Yours sincerely,

A handwritten signature in cursive script that reads 'Sydney Frost'.

(Sydney Frost)
Chairman

The Rt Hon. Malcolm Fraser, CH, MP,
Prime Minister,
Parliament House,
CANBERRA ACT 2600

PREFACE

The appointment of the independent Inquiry into Whales and Whaling has its origin in a statement made by the Prime Minister, Mr Malcolm Fraser, in November 1977. The circumstances which led to the Government's decision that an inquiry should be held were mentioned by the Prime Minister in a further statement made on 20 March 1978. The Prime Minister said:

Many thousands of Australians - and men, women and children throughout the world - have long felt deep concern about the activities of whalers.

There is a natural community disquiet about any activity that threatens the extinction of any animal species.

I abhor any such activity - particularly when it is directed against a species as special and intelligent as the whale.

There are however two distinct views in relation to the activities of whalers.

One view put to me strongly is that all whale species under threat of extinction are protected by moratoriums imposed by the International Whaling Commission and that current policy is in line with the best principles of conservation.

An alternative view which has also been strongly argued to me is that the present practice of killing whales does endanger the whale species. Many other arguments have also been put on both sides.

The Government believed the only fair way to resolve this issue was for an independent inquiry to look at every aspect of whaling ...

The terms of reference for the Inquiry are as follows:

1. The Inquiry shall examine and report upon Australia's policies on whales and whaling. It shall make recommendations on the best way in which Australia might pursue its policy of preservation and conservation of the many species of whales (also known as cetacea).
2. The Inquiry shall in particular examine:
 - (a) whether Australian whaling should continue or cease;

- (b) the consequences for international whaling of Australia's decision;
 - (c) international regulatory mechanisms in so far as these bear on Australia's concern for preservation and conservation of whales.
3. Without limiting its scope in any way, in considering Australia's possible actions the Inquiry shall examine:
- (a) the role of whales in marine ecosystems and the impact of past and current whale harvesting strategies on the marine environment;
 - (b) any special features of whales which may make their conservation important;
 - (c) significant consequences, if any, for other areas of conservation policy;
 - (d) methods used in taking whales and whether better methods are possible;
 - (e) factors influencing the scale of Australian and world whaling activity, including the demand for products derived from whales and the possibilities for substitution;
 - (f) any consequences for Australian employment and industrial development, particularly in Albany;
 - (g) the implications of Australia's policies on 200-nautical-mile fishing and economic zones in Australian waters, including those adjacent to the Australian Antarctic Territory;
 - (h) foreign relations aspects;
 - (i) any other considerations relevant to whales and whaling.

Submissions were sought from many sources. In addition to press advertisements, informal discussions were held with many interested parties and experts. To ensure that the necessary scientific material was obtained, the Inquiry also sent letters to more than two hundred people and organisations in Australia and overseas inviting submissions, and commissioned technical papers related to the terms of reference. The commissioned papers, which have been printed in a separate volume, were prepared by Dr Sidney Holt, Advisor on Marine Affairs, Food and Agriculture Organisation of the United Nations, Rome, Italy; Dr Peter Morgane, Senior Scientist,

Worcester Foundation for Experimental Biology, Shrewsbury, Massachusetts, USA; and Professor Harry J. Jerison, Professor of Psychiatry, University of California, Los Angeles, USA.

The response was gratifying and over one hundred major submissions were received from government authorities, conservation groups, whaling interests, scientists, academics, community bodies and members of the public. Many came from abroad, especially from the United States. All submissions are listed in Appendix 1. In addition many hundreds of people wrote to the Inquiry expressing their views.

In June 1978, I attended meetings in the United Kingdom of the Scientific Committee of the International Whaling Commission and of the Commission itself, and during July 1978, I attended an international conference in Denmark to consider a revision of the International Convention for the Regulation of Whaling. I was accompanied by Mr A. Struik and Mr A. Caton. These meetings were of great assistance to the Inquiry. As well as having informal discussions with delegates and scientists from many nations there was an opportunity to consult many experts both in Europe and the United States. Appendix 2 lists all of the people I had discussions with during this overseas trip. The summaries of discussion at these consultations have also been treated as submissions.

In order to encourage the widest possible discussion of the issues, people and organisations who provided submissions were able to obtain copies of other submissions and commissioned papers on related topics. They could also seek clarification upon statements made in other submissions.

Public hearings were held at Albany, Perth, Sydney and Melbourne. People and organisations who had forwarded submissions were given every encouragement to provide further oral evidence.

Those who came forward to give evidence could be questioned throughout the hearings by representatives of the Commonwealth Government, the Western Australian Government, Cheynes Beach Whaling Company (1963) Pty Ltd, Project Jonah, the Australian Conservation Foundation, Friends of the

Earth and the Secretary of the Inquiry. Arrangements were also made for other people to ask questions either directly or through one of these parties whenever necessary.

It will be noted that the Inquiry had no legal power to compel attendance or administer an oath or affirmation, and absolute immunity did not extend to its proceedings. However, in the case of this Inquiry, its limited powers did not prove to be any disadvantage. Questioning went smoothly and I do not recall any case in which there was a refusal to answer a relevant question.

Originally two major hearings were planned, the first in Albany and the other in Melbourne. The Albany hearing was planned to deal principally with matters concerning the whaling company and the Albany town and region in which the whaling operation is based, and, in particular, with sections 3(e) and (f) of the terms of reference. However, as will appear, this hearing was deprived of much of its substance by the announcement on the first day of proceedings that the whaling company would cease operations in the near future.

The Melbourne hearing was devoted principally to the scientific and foreign relations aspects of the terms of reference, including section 3(g) dealing with 200-nautical-mile fishing and economic zones.

A number of Australian and overseas scientists were invited to attend the Melbourne hearing to discuss their views. Particular mention must be made of Dr K.R. Allen, Mr J.L. Bannister and Dr G.P. Kirkwood from Australia, and Dr S. Holt, Dr M.S. Jacobs and Mr M. Greenwood who travelled to Australia for the Inquiry. These scientists gave extensive evidence, often over several days, which was of the greatest assistance to the Inquiry. A list of all those who provided evidence at public hearings is at Appendix 3.

I wish to record my appreciation of the assistance I received from Mr J.W. Saleeba, Executive Director of Cheynes Beach Holding Limited and Mr G.M. Reilly, a Director of the Company and also General Manager in charge of all whaling operations in Albany, in making arrangements for members of the Secretariat and myself to view the Company's whaling

operations. I made flights on the Company's spotter plane, accompanied by Mr Struik, and several voyages on board a catcher. From the plane and on the final voyage I was able to see whales killed. I also visited the station at a time when whales were being flensed (stripped of blubber). All this gave me a clear understanding of the Company's techniques and factory operations.

In conclusion, I wish to acknowledge the valuable support provided by the Secretariat, headed by Mr Andrew Struik as Secretary. The other members of the Secretariat were Mr Brent Arnott, Mr Albert Caton, Miss Michele Foster, Mr Richard Longmore, Mr Peter Rogers and Ms Elizabeth St Clair Long, and administrative and secretarial assistance was provided by Mr Graham O'Neill and Mrs Janis McCulloch. Assistance with final typing of the report was also provided by Ms Wilma Hopkins.

Sydney Frost

Chairman

Inquiry into Whales and Whaling

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WHALES AND WHALING

VOLUME 1

INTRODUCTION

The Inquiry into Whales and Whaling was established in March 1978 to examine and report upon Australia's policies on whales and whaling including the position Australia adopts internationally, and to make recommendations accordingly. The Inquiry was asked in particular to examine:

- (a) whether Australian whaling should continue or cease;
- (b) the consequences for international whaling of Australia's decision;
- (c) international regulatory mechanisms in so far as these bear on Australia's concern for preservation and conservation of whales.

The full terms of reference are included in the preface to this report.

Scope of the inquiry

It will be noted that the terms of reference extend to 'the many species of whales (also known as cetacea)'. In fact there are over eighty species of the order of mammals called Cetacea, which includes whales, dolphins and porpoises. However, it is only three of the great whales, the right whale, the humpback and the sperm whale, which have been hunted off the coast of Australia, and accordingly this report is concerned mainly with those species.

Two major events occurring after the Inquiry was established have affected its course. The first of these was the announcement on 31 July 1978 by Australia's only whaling company, Cheynes Beach Whaling Company (1963) Pty Ltd (Cheynes Beach), that the 'directors believed operations this year would result in a substantial loss and it was unlikely that there would be any profit in whaling in 1979' and that therefore the 'board had decided whaling operations must end in the near future' (Cheynes Beach Press Release 31 July 1978, see Appendix 4). Cheynes Beach has since announced that it will continue whaling to the end of the 1978 season and will then stop permanently (Cheynes Beach Half Yearly Report, September 1978).

This matter is elaborated in Chapter 8 when dealing with markets for whale products.

The second event affecting the Inquiry was the presentation by Dr K.R. Allen, Mr J.L. Bannister and Dr G.P. Kirkwood of scientific evidence that the sperm whale stock hunted by Cheynes Beach (known as the East Indian Ocean or Division 5 stock) is more depleted than was previously thought. This matter was put before the Inquiry on 21 August 1978 at the Melbourne hearing, with the conclusion that on present analysis males in this stock should be classified as a Protection Stock under the International Whaling Commission management procedure (so that no males can be taken), and that there seemed good reason also to stop taking females immediately, thus helping the stock to recover. Further detail is provided in the discussion in Chapter 6 of the status of whale stocks in Australian waters.

The Inquiry has consequently been relieved of the heavy responsibility of advising upon the future of the Cheynes Beach whaling operation, and accordingly of assessing the economic significance of this operation to Albany.

This does not mean that the Inquiry has no further purpose at all. The question remains of the attitude and course of action which the Australian Government should take on the quota fixed for the East Indian Ocean sperm whale stock by the International Whaling Commission at its meeting in June 1978. This is dealt with in Chapter 6. There is also the possibility, even though remote, that the Australian Government may be faced in the foreseeable future with an application for the grant of a whaling licence. This must be considered - although the state of whale stocks off Australia is in itself sufficient to preclude any such application being granted in the immediate future.

The question of Australia's policy on whales and whaling is also of importance internationally. It is raised because Australia is a member of the International Whaling Commission; as will appear, even in the absence of Australian whaling activities, Australia should continue to have a voice in that forum. Its policy on whaling should also be pursued

in bodies such as the United Nations Environment Program, and in Antarctic Treaty negotiations.

Accordingly the Inquiry is not relieved of its responsibility to examine the matters set out in the terms of reference with a view to reaching conclusions and making recommendations upon Australia's future policy. Many of the terms of reference are unaffected in their importance. In particular the Inquiry must consider international regulatory mechanisms in so far as these bear on Australia's concern for the preservation and conservation of whales, the role of whales in the marine ecosystem and the impact of past and current whale harvesting strategies on the marine environment, the implications of Australia's policies on the 200-nautical-mile fishing and economic zones, and the extent and direction of future Australian research on whales.

Major issues

As a background to a consideration of the issues, Chapter 1 includes a discussion of the biological features of whales, Chapter 2 an outline of the history of whaling, and Chapter 3 an examination of the development and the control of whaling, both under Australian legislation and also by the International Whaling Commission, and the extent of Australia's powers in relation to whaling within its fishing zone.

Turning to the issues, there is an international responsibility to ensure that, at a minimum, all whale species are conserved and not endangered. The current Commonwealth Government policy of supporting the conservation of whales based on the advice of the Scientific Committee of the International Whaling Commission is designed to embody this in principle. There is however substantial debate on whether the Commission's procedures are sufficiently conservative and on the reliability of the scientific analysis. These issues are considered in Chapter 4.

Whether Australia decides on a policy of complete protection of whales or one of conservation and careful management, it must recognise that other countries may have different views. Chapter 5 builds on earlier discussions of international regulation of whaling and examines the question of whether

the International Whaling Commission is the best body to be responsible for international conservation and management of whales and whether any changes in the Commission are desirable.

The present condition of whale stocks off Australia, and especially the status of the Division 5 sperm whale stock, is examined in Chapter 6. We also consider here the priorities which Australia should adopt in its future research programs on whales.

It has been argued that, even if whales are considered as a potential resource, they should not be killed as there is no need - substitutes being available for all whale products. Australian use, which is primarily of products derived from sperm oil, and the availability of suitable alternatives, are examined in Chapter 7. Chapter 8 then reviews the factors which have influenced the market for sperm oil in recent years, leading eventually to the decision by Cheynes Beach that it would close down.

Some people go further and believe that whales should not be considered as a resource and should be completely protected. It is often claimed in support of this that whales have a high degree of intelligence or mental ability. Chapter 9 reviews and assesses the significance of available material on the brains and behaviour of whales.

Furthermore, many people believe that whaling inflicts an unacceptably slow and painful death on the whale, with an average time to death of about three to five minutes - much longer than would be tolerated for cattle in a slaughterhouse. Chapter 10 reviews the techniques used to kill whales and the available evidence on extent to which these are inhumane.

The most general argument for protection is that the killing of an animal such as the whale requires much stronger justification than now exists or is likely to exist in the foreseeable future. This is part of a growing community concern about wildlife and the environment. Chapter 11 discusses these current community attitudes and also presents an indication of the strength of public concern for whales as expressed in opinion polls and petitions.

The different arguments in the whaling debate are brought together and assessed in Chapter 12. This chapter presents our views on the desirable direction of Australia's future policy on whaling, and is followed by a summary of the Inquiry's conclusions and recommendations.