

26 August 2004

Illegal Fishing Review Team  
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**OCEANWATCH**

*FOR THE FUTURE OF OUR MARINE ENVIRONMENT*

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Dear Illegal Fishing Review Team,

**Submission re: Report on Illegal Fishing for Commercial Gain or Profit in NSW**

This letter sets out the comments from Ocean Watch Australia Ltd's (Ocean Watch) in relation to the *Report on Illegal Fishing for Commercial Gain or Profit in NSW* by Mick Palmer.

Ocean Watch is an environmental, non-government organisation sponsored by the commercial seafood industry to represent the environmental interests of industry with respect to protecting and restoring fish habitats, improving water quality and promoting sustainable fisheries.

Ocean Watch welcomes the report and its comments. Illegal fishing in NSW has serious implications for the sustainability of the marine environment and fisheries resources by depleting fish stocks through the removal of breeding stock and the taking of undersized fish. It also creates significant public health risks. This in turn impacts on the sustainability and viability of the commercial fishing industry in NSW.

On the whole, Ocean Watch supports the recommendations in the report with regard to the need for: greater resource protection; improved understanding of Aboriginal fishing practices; improved understanding of the social, environmental and economic impacts associated with illegal fishing; the need for legislative change and improved compliance frameworks; and the need for better education programs. Some specific comments pertaining to individual recommendations and findings are outlined below:

- **Education: Recommendations I** We agree that education programs are fundamental to the success of combating illegal fishing in NSW and should be targeted more broadly at stakeholders and the community to raise awareness of the impacts of illegal fishing, particularly with respect to environmental consequences such as removal of critical breeding stocks, the public health risks, and to raise awareness about indigenous issues etc. A targeted program for recreational fishers for the importance of maintaining catch records should be considered. Such records, such as those proposed in Recommendation xiv, would assist managers in making better-informed management decisions for the sustainability of stocks. Targeted education programs however, aimed at the 'small number of people' who commit the 'majority of fish theft and black marketing' will most likely prove ineffective as these

people, 'motivated by greed and opportunity' are well aware of the implications of their actions. Compliance and prosecution will be the only way to deal with these individuals.

- **Fisheries compliance: Recommendations ii and iii** As a matter of priority and with the restructuring of the Department of Primary Industry the existing compliance framework operating within DPI to identify and successfully prosecute offenders is generally ineffective. It is essential that a more effective compliance framework is established that removes 'red tape' and promotes identification and prosecution of those undertaking illegal activity. Fundamental to the success of such a compliance framework will be establishing trust between DPI and the commercial fishermen to achieve improved cooperation from the fishermen, particularly if they are to embrace their role as watchdogs for illegal fishing. A large number of fishermen we have been in discussions with regarding illegal fishing have indicated to Ocean Watch "it is no use reporting anything to Fisheries as they don't seem to do anything about it" – a reflection of the under-resourcing and red tape currently existing in the department. A better two way communication mechanism needs to be established between the commercial fishermen and DPI, perhaps separate to the general 1800 number available to report illegal activity.

We support the comment that there are insufficient officers to effectively enforce compliance and to create a presence on the waterways which aids to deter illegal activity. However, given DPI limited budget and resources, additional compliance officers should not be created at the expense of Fisheries Conservation Managers and Officers. These positions play a critical role in assessing development applications and prosecuting for illegal activity under Part 7 and 7A of the Fisheries Management Act to ensure minimal impacts to vital fish habitat, habitat repair etc. They are crucial to the sustainability of the fisheries resource and the industry.

- **Indigenous fishing: Recommendation iv** Ocean Watch supports the comments on indigenous fishing, the incompatibility of the Fisheries Management Act 1994 and the continuation of traditional Indigenous fishing practices ('culturally based hunting' practices distinct from 'commercial exploitation'). The Indigenous Fishing Strategy and traditional fishing rights should be integrated within all NSW Fisheries policies. Full engagement and open consultation with Aboriginal stakeholders from across the State is fundamental in developing legislative changes and ensuring proper consideration of cultural recognition.

We strongly support that an opportunity be given to young Aboriginal offenders to 'work off' fines in a culturally acceptable form of punishment. Too often is the case that Aboriginal offenders resort to criminal activities such as stealing in order to pay off fines from offences. Alternative culturally acceptable punishment is encouraged in the hope of breaking this cycle of crime.

Ocean Watch has witnessed that the Aboriginal MAC positions are not filled, and Aboriginal people need to be made aware of their availability and encouraged to attend.

- **Undersized abalone: Recommendation x** We agree that it should be an offence for divers who fail to 're-attach abalone to a reef after it has been measured and found to be undersized', however we question the ability of officers to enforce this. We agree that penalties for illegal fishing activities need to be heavier, particularly for lucrative industries as the abalone industry.

- **Incentives for Reporting of illegal activity: Recommendation xxii.** Consideration should be given to the possibility of appropriate incentives for fishers to report illegal activities.

We believe it is important that the above concerns are addressed in the formulation of DPls policy and the development of actions to address the problem. Please do not hesitate to contact me on (02) 9660 2262 if you would like to discuss these comments further.

Yours sincerely

A handwritten signature in black ink, appearing to be 'AL', with a long horizontal line extending to the right.

**Anissa Lawrence**  
**Executive Officer**  
Ocean Watch Australia Ltd