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Dear Richard

Submission: Review of fisheries management in NSW

Further to your request for comments and recommendations in relation to fisheries management in NSW this letter sets out the views of Ocean Watch Australia Ltd (OWA). OWA is an environmental, non-government organisation sponsored by the commercial seafood industry to represent the environmental interests of industry with respect to protecting and enhancing fish habitat and water quality and building sustainable fisheries.

1) The performance of fisheries management in achieving sustainable use of the State's fisheries resources together with tangible benefits to the community and key stakeholder groups.

Current fisheries management in NSW equates to the management and control of commercial, recreational and indigenous fishers, in particular fishing effort and interactions of these fishers with the fish resource as well as protected species and aquatic habitat. There has been little integration into broader ecosystem issues such as external environmental factors affecting a fishery. In addition, each fishery is managed almost totally in isolation (in a silo) of other fisheries and the aquatic habitat protection and rehabilitation programs. This is a legacy of fisheries management and this approach has been proven to be an ineffective way to manage fisheries, both nationally and internationally.

This "control and conquer" approach has led to over-management of fisheries, inefficiencies within the Department of Primary Industries (DPI), unnecessary financial burdens on industry and poor communication between stakeholder groups, while the resource base has continued to decline due to

external pressures on habitat. In addition, fisheries management decision making from within DPI has often seemed to be politically driven, rather than based on science and has rarely engaged adequately with industry to consider the social, economic and environmental impacts of such decisions. For example, the creation of recreational fishing havens in NSW was, in some cases driven by political agendas rather than sound science and commercial fishers were unfairly done by. There is little evidence now to suggest that removing the commercial effort out of some estuaries and lakes has resulted in major improvements. The damage caused by this management style within DPI has resulted in a lack of trust within industry towards DPI. Fishers have been “burned” too many times by trying to do the right thing/provide information requested, only to have it used against them and their access further reduced.

2) Possible impediments to the delivery of high quality fisheries management outcomes together with measures which will significantly improve advice to the Minister, DPI and stakeholder groups

Before any other actions are taken to deliver high quality fisheries management in NSW, it is imperative that the economic and social issues within the industry are addressed as a priority. To this end, share management and related structural adjustment measures must be undertaken immediately to provide an avenue for a long term and viable industry. For too long the government has been discussing these mechanisms and yet we are still waiting for them to be activated. The longer industry waits for these mechanisms to be implemented, the greater the pressure on industry and the environment. There are too many fishers within industry that are not viable – the industry does not deny this. The issues of access rights and effort must be addressed quickly before any impediments are addressed. The government has put off undertaking any structural adjustment for too long and as a result industry has continued to struggle to remain viable.

Recommendation: The key priority for DPI and the government should be structural adjustment and completion of securing access to fishers through the share management process. Steps should be taken to review the existing processes within DPI to remove “red tape” that hinder the ability of the agency to complete and roll out these mechanisms. In addition, political will must be guaranteed to make the tough decisions to act and provide the funding necessary for any structural adjustment to be effective. Issues such as illegal fishing, grey nurse sharks and marine parks must also not continually be deferred. All are a core part of moving the industry forward and require leadership from the government to address them.

We believe that the new Seafood Industry Advisory Council (SIAC) has the potential to act as a catalyst to address impediments however we make some recommendations to ensure this occurs:

- SIAC is currently rather a large group that consists of a number of representatives as well as others for their skill set or specialisation. To be effective, this group needs to be streamlined to no more than 12 members who hold positions based on their skill set and specialisation rather than due to them solely representing a part of industry.*
- The agency positions on SIAC should be filled by the Deputy Director or Director of Fisheries Management, rather than a number of middle management staff. Both these positions should be able and willing to commit to decisions that are in the interest of industry moving forward.*

- *SIAC needs to operate as a transparent body to ensure trust can be established to move forward. At the moment we believe that there is a fair way to go from both industry and agency representatives on SIAC to achieve this.*
- *It is imperative that SIAC takes a strategic focus and does not become a surrogate for an industry peak body. The current agenda within SIAC is very full and too broad. The priority for SIAC should be structural adjustment and share management within the context of ecosystem based fisheries management. Until these issues are addressed the industry cannot move forward and we will continue to fight spot fires rather than address the core problem.*

The issues identified below are seen impediments to high quality fisheries management in NSW. These are matters that may not be resolved quickly and will require significant investment into changing the culture of the industry and agency, in particular building transparency and trust, and also to strengthen legislative powers.

Poor communication, transparency and a perceived lack of understanding of links between the resource base and fish stocks

Communication between DPI fisheries managers and external stakeholders is generally poor and lacks transparency. Communication between DPI and commercial fishers in particular is extremely ineffective. For example, we have attended numerous MAC meetings as observers and seem the difficulties experienced by the fisher representatives with a process that is not transparent, driven by DPI internal agendas and often gives little regard to justified fisher concerns about decisions being made. Decisions are being made by fisheries managers that can have major ramifications on industry and yet they are undertaken with inadequate consultation or engagement of MAC representatives, or other members of industry. The approach of DPI to circulate critical matters for discussion “out of session” is unacceptable. We are far away from co-management in this state. Some sections of the agency have worked quite hard at building an open and transparent partnership arrangement (such as between OWA and the AHP and rehabilitation units), however this does not appear to be the norm and is mostly the result of individual personalities driving partnerships.

Communication between fisheries divisions within DPI is poor. There seems to be little effective communication between fisheries managers, compliance and the aquatic habitat protection and rehabilitation units and other units within DPI (fisheries branch). In many situations, where we have questioned management decisions and the lack of incorporation of habitat matters into fisheries management strategies, we have been told by fisheries managers that these decisions have nothing to do with habitat. This has been incorrect as the matters have been all about habitat. OWA has a good relationship with the AHP and aquatic habitat rehabilitation units and have been privy to the frustrations within this group at the lack of regard given to habitat matters in fisheries management decision making. There appears, outside of these units to be a generally poor understanding of the importance of these units, and the links between habitat and fish stocks and fisheries management. This lack of understanding became apparent when earlier this year the staffing levels in Aquatic Habitat Protection unit were to be reduced. It was clear from early discussions with the Minister, Director General, and others within DPI of the lack of knowledge of the importance of this unit to ensuring long term sustainable fisheries within the State. It was only through intensive industry lobbying that the decision to reduce staffing was reversed.

It must be stated however that communication is a two way process and there is more that the AHP and rehabilitation units within DPI could also be doing to build effective communication channels.

Recommendation: Steps should be taken within DPI to remove the legacy culture of “control and conquer”. This will require, in our opinion, strong leadership and direction from the Director General, the Deputy Director General and the Director of Fisheries Management. It may also require restructuring the operations of DPI to allow for a “partnership” culture to grow. (Industry must also, however, take ownership and provide leadership in this area to unite industry and repair the damage previously done to the relationship.)

Leadership is also required to ensure cross communication occurs between divisions of DPI. In particular, where management decisions are being discussed it is imperative that all internal stakeholders to that decision are present or engaged, including the AHP unit.

Where possible, consideration should be given to cross training of staff within DPI to provide opportunities to expand the understanding by staff of what each division within DPI (fisheries branch) does and how they relate. This would not only be useful at a graduate level, but also with management (although we appreciate the difficulties in doing this with an under resourced agency).

There is a considerable lack of understanding by fisheries managers of fishing methods, how each fishery operates etc and how management decisions made (outside of appropriate consultation with industry) will impact on industry. Steps need to be taken to ensure staff involved in fisheries management are given adequate exposure to fishing methods, including spending time with industry representatives while fishing as well as proper engagement with respect to management decisions. This will be an initial step to a move to co-management of fisheries.

It is also important that DPI provide appropriate representation for external natural resource management issues. This will require suitably briefed representatives to discuss across DPI issues rather than just their area of expertise. Currently DPI is often either not represented or a representative attends that cannot speak across all areas of DPI, eg they may only be able to discuss agricultural impacts.

A lack of appreciation for the value of fisheries ecosystem services

We believe the need to move to ecosystem based fisheries management within NSW is imperative for the future of the industry. Securing access and structural adjustment however, must be the first step in moving towards this approach. Healthy and abundant fish habitat is fundamental for the long-term sustainability of wild harvest fisheries. The links between fisheries productivity and the quality and quantity of fish habitat available to sustain the resource is recognised internationally. In NSW, we believe one of the greatest issue facing commercial fishers and recreational fishers is a loss of habitat and yet DPI has given little priority and few resources to habitat protection, management and rehabilitation. With the dramatic “seachange” phenomena taking place across the NSW coast, population and landuse pressures are growing, along with the continued degrading and destruction of aquatic habitat. NSW fisheries are predominately estuary dependent with the majority of species caught reliant on estuarine/river habitats and river flows throughout their lifecycle. NSW has seen significant losses to estuarine and floodplain wetlands (mangroves, saltmarsh, seagrass) since European settlement. We have introduced 1000's of barriers (such as floodgates, weirs and road crossings) across creeks and rivers that prevent fish passage to nursery and

breeding areas, 12-90% of all saltmarsh and 50% of seagrass has been lost and we are extracting large amounts of freshwater flows out of rivers. The community and fisheries managers argue that commercial catch is declining due to overfishing and yet we believe that the impacts of such dramatic changes to critical fish habitat across the State cannot be discounted. If there is no habitat there will be no fish! It is imperative that aquatic habitat issues and outcomes are factored into any fisheries management strategies developed. This currently does not happen sufficiently.

We do recognise that the issues outlined above highlight a fundamental flaw in the silo approach by government to manage its natural resources. However, given the “size” of this issue, it is raised more for highlighting the need for cross government policy to address these issues and a political will to recognise appropriately the value of ecosystem services such as fish habitat play in society.

Recommendation: A whole of government policy approach is required for managing cross jurisdictional issues such as water quality, fish habitat etc (a very big challenge for a government that appears to be pro development!). Until this occurs it is difficult for DPI to address the core objectives of its legislation. The government tends to be terrestrial focused as is seen with the recent proposal for “Biodiversity Banking” which ignores the “in stream” biodiversity values across NSW.

The implementation of the strategic plan/policy of DPI relating to fisheries management needs to ensure it encompasses mechanisms to better incorporate ecosystem based fisheries management as a priority with less focus on individual fisheries and their management as isolated issues.

As a more immediate step, DPI and the Minister need to ensure that tough decisions are made quickly with respect to ecosystem services. In particular the need to protect those services that are critical for maintaining viable fisheries production, whether that be through marine protected areas, additional fishing closures (both to recreational and commercial), reductions to effort (through structural adjustment) or other means. All too often an announcement is made relating to a particular marine protected area with no information or action following to the community and industry. This example of poor communication results in distrust, fear and anger from external groups. Announcements such as this need to be backed with transparent actions on the part of DPI.

In addition, it is imperative that ecosystem services are valued at a level that reflects their “actual” economic value. To this end, a suitable model needs to be developed to be able to do this, ie. to provide an economic value. Once this is in place this will assist in conserving and protecting these assets by providing an appropriate economic estimate of their value into development equations. Too often, due to a lack of tangible economic arguments on the importance of fish habitat, developments are approved at the expense of continued declines to fish stocks. A tool such as this would provide a more effective trade off system for developers to work under where habitat is to be lost.

Staffing within the Aquatic Habitat Protection Unit

Earlier this year, OWA expended considerable effort along with a large number of others within industry to ensure that the AHP unit within DPI remained at its current capacity. The AHP is considered by industry to be one of the most important functions within DPI. This group directly works to address the core objectives

of the *Fisheries Management Act 1994 (FMA)*. Without this group considerably more habitat critical for fisheries production would have been lost at the expense of industry. This group is largely staffed by temporary employees on short term contracts. As a result, staff turnover within this group is high to the frustration of industry and it is difficult to have matters adequately addressed. The skills required within this group are highly specialised. Continuity of staffing therefore, is extremely important for organisations such as OWA that work in partnership with this unit to achieve conservation outcomes (we have a Memorandum of Understanding with DPI relating to conservation matters). More importantly, DPI has a legislative responsibility to protect aquatic habitat. There is no other agency within government responsible for protecting aquatic habitat.

This group has achieved some important prosecutions with respect to breaches to the FMA from landholders and others relating to destruction of fish habitat. It is imperative that this group remain effective to be able to do this.

Recommendation: All critical positions within the AHP unit should be made permanent. The functions of this unit should be reviewed to ensure efficiency and effectiveness of operations and to ensure communication between divisions is improved.

Legislation deficiencies

The *Fisheries Management Act 1994* provides little scope for protecting fish habitat within NSW and yet the core objectives of the FMA are clearly all about aquatic habitat protection, threatened species conservation and ecologically sustainable development. Part 7 of the FMA has a narrow focus on marine and estuarine flora (seagrasses, mangroves and seaweeds) and only two damaging activities (dredging/reclamation and obstructing fish passage). There are a range of habitat components (such as saltmarsh) and damaging activities (such as impacts from water quality) that are excluded. In addition, the mechanisms to protect habitats (such as through permits and concurrences) are only effective for those proposals that explicitly impact on fish habitat such as dredging. DPI has no jurisdiction with respect to the most fundamental variable for fish habitat, water quality and quantity. Without adequate legislative power relating to aquatic habitats, DPI in the long term will remain ineffective at ecosystem based fisheries management.

Recommendation: Amendments are required to update and extend the fish habitat protection provisions of the FMA to ensure that it encompasses a full range of key fish habitat types and enables both proposed and existing degrading processes to be addressed. The legislation also requires offence provisions to not only include recent damage/harm but also ongoing harmful processes and disruption to lifecycle processes. This will provide DPI and industry with a stronger advocacy position with respect to fish habitat when dealing with water authorities, other agencies, landholders, local councils etc.

This review provides an opportunity for industry and agency to work together to address a legacy system and processes that have failed to adapt with changes in economic conditions and the environment within which commercial fisheries in NSW operate and does not give adequate consideration to sustainability matters. It is imperative that the future for fisheries management in NSW be based on a co-management ecosystem based approach that is flexible and accommodating to workable solutions, within legislative requirements. We trust that the results from this review of fisheries management will be presented to and acted upon accordingly through SIAC. I look forward to reading the outcomes and recommendations proposed. Please do not hesitate to contact me on (02) 9660 2262 should you require further information.

Yours sincerely

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

Anissa Lawrence
Chief Executive Officer
Ocean Watch Australia Ltd