



Treasurer of New South Wales
Australia



13 May 1998

Mr John Evans
Clerk of the Legislative Council
Parliament House
Macquarie Street
SYDNEY NSW 2000

Dear Sir,

Please find attached, the Government response to the Report of the Standing Committee on State Development on Fisheries Management and Resource Allocation in New South Wales.

The Government is required to respond to the Standing Committee Report within six months of the Report being tabled in the Legislative Council.

Would you please arrange for the Government response to be tabled in the Legislative Council.

Yours sincerely

Hon. Michael Egan
TREASURER
MINISTER FOR STATE DEVELOPMENT

*Tabled by Clerk
14/5/98
Ordered to be printed.
John P. Davis*

**RESPONSE TO
THE STANDING COMMITTEE ON STATE DEVELOPMENT
REPORT ON
FISHERIES MANAGEMENT AND RESOURCE ALLOCATION
IN NEW SOUTH WALES**

Recommendation 1

That the Offshore Constitutional Settlement be resolved as a priority by NSW Fisheries to ensure a holistic (consistent) approach to fisheries management across the State/Commonwealth boundary (3 NM).

Response

Revision of the Offshore Constitutional Settlement as a complete package was attempted over several years and failed due to the intransigence of the Commonwealth over the management of species caught in the South East Fishery (SEF). Management of the SEF is widely recognised as having failed with serious overfishing, quota abuse and discarding problems. NSW has resisted Commonwealth proposals for the transfer of jurisdiction over the sixteen quota managed SEF species, however caught, while those problems remain unresolved.

Significant progress has recently been made in addressing individual fishery issues with in principle agreements between Ministers on the rationalisation of jurisdictional issues for several non-SEF species.

The Government will continue this approach of working constructively with the Commonwealth on the resolution of outstanding OCS issues on an issue by issue basis.

Recommendation 2

That the Minister implement share management immediately after 30 April 1998 in fisheries whose MACs request it.

Response

The Management Advisory Committees will report to the Minister by 30 April 1998, and the Minister will make a public response to the recommendations by 30 June 1998, or by such later date before 30 September 1998 as he determines on the recommendation of the Management Advisory Committee.

Recommendation 3

That kingfish trapping be recommenced on an experimental basis. NSW Fisheries and ex commercial kingfish trappers should operate this pilot scheme for 1 year. Independent

assessment of the recreational take, the black market take and the charter boat take should be carried out along with a detailed stock assessment.

Kingfish traps as a method should be assessed for their efficiency, bycatch, state of the fish as landed and value at point of sale in comparison with line fishing for kingfish.

The Total Allowable Catch Committee should be furnished with the results of the assessment and take into account the commercial data for the years 1990-1995. A TAC for kingfish should be set within 3 months of receiving the detailed stock assessment and take data, and no longer than 18 months from the tabling of this report.

Response

Kingfish trapping will not be recommenced. Entry to restricted fisheries was determined using criteria years between 1986 and 1990. Any attempt to allocate access rights for a particular gear type on the years 1990 to 1995 would be inequitable. Commercial fishers are currently considering whether to opt for input or output controls in the trap and line fishery. Any proposal to establish a TAC for kingfish or any other line caught species would need to be considered in the light of those deliberations. As a relatively low value fishery, the cost of a quota management scheme for kingfish might not be cost effective.

Recommendation 4

The Standing Committee recommends that to protect the beach haul fishery, other boat-based fishing methods (including purse seine operators) should not be able to operate within 500m of the shore. (Shore being defined as the limit of the high water mark).

Response

This recommendation has been referred to the beach haul MAC for further consideration.

Recommendation 5

That the activities of charter boats be clearly defined and regulated by a system of registration and licensing. The lodgement of catch returns should be a condition of this licence.

Response

The *Fisheries Management Act 1994* was amended in December 1997 to provide the power to effectively manage the charter boat industry. Any licensing scheme will not be implemented until a workable and cost effective system has been developed through extensive consultation with affected operators.

Recommendation 6

That the Government amend the Fisheries Management Act 1994 and/or associated regulations to broaden the Department's awareness of, and contact with, the post harvest sector, and to provide fish marketing organisations with a more formal role in liaising with fishers. These amendments should establish a more comprehensive framework to combat the black market trade in fisheries product and provide a means of informing fishers of ways to maximise the value of their catch.

Response

The Department has effective contact with fishermen's co-operatives and other significant point-of-first-sale operators. The seafood post harvest sector is a large, ill defined group ranging from wholesalers, packers, large and small scale processors, transporters, restaurants and myriad small scale retailers. The Department already provides information, advice and services to these groups. It is clearly recognised that fish merchants do not, and cannot represent the interests of all involved in the seafood industry.

It is up to the fish marketing organisations to establish their own linkages with fishers as they do with importers, other wholesalers or product suppliers of any kind.

Following deregulation of seafood marketing in November 1999, the registration of fish receivers under section 117 of the *Fisheries Management Act 1994* will ensure closer interaction between NSW Fisheries and the post harvest sector.

The *Fisheries Management Act 1994* already contains extensive powers to deal with the illegal sale of seafood. Unfortunately blackmarketed product may find its way into established wholesale and retail networks undermining compliance efforts. A strong retail industry stand against the handling of blackmarket products and a code of conduct against the purchase of illegally caught fish would be supported.

A broadening of the *Fisheries Management Act 1994* to embrace the post-harvest sector would entail considerable costs that would have to be recovered from the beneficiaries.

Recommendation 7

That a compulsory levy (to be determined through consultation with industry) be collected from the first receiver, levied on each kilo of product caught or imported into NSW. Funds raised from this levy should be used to improve quality assurance, product development, seafood promotion, and environmental sustainability.

Response

This response is not supported at this time. The Government is committed to the implementation of food hygiene standards to ensure food safety and will take all necessary steps to protect public safety.

Recommendation 8

That a benchmarking process which identifies the duties of the enforcement branch and the associated level of resources required be undertaken, followed by an assessment of the ability of the enforcement branch, as currently resourced, to comply with these expectations.

Response

A benchmarking project against other state fisheries agencies is already in train. This project will include the compliance functions of the Department.

Recommendation 9

That a Volunteer Fishing Liaison programme be established in New South Wales. The role of Volunteer Fishing Liaison Officers should be limited to education and offence reporting, with no enforcement duties.

Response

The feasibility of a Volunteer Fishing Liaison programme will be assessed through a pilot program, with further implementation considered subject to resource prioritisation.

Recommendation 10

That the NSW Government introduce a general recreational fishing licence. Licence fees should be set between \$20 and \$30 per annum, with special arrangements for short and long term licences, children and families. The revenue raised through these licences must be held in trust under the control of a Board of Trustees to engender trust in the system by, and ensure accountability to, recreational fishers.

Response

There is no intention to introduce a general recreational fishing licence at this time. A freshwater access fee was re-introduced in recent amendments to the *Fisheries Management Act 1994*. Trust funds were also introduced, including a dedicated trust fund for monies collected under the freshwater access fee.

Recommendation 11

That:

- the application form for a general recreational fishing licence ask the applicant to estimate (1) how many hours per month they spend fishing and (2) what percentage of this time is spent fishing warm freshwater, alpine freshwater, estuarine, ocean beach and deep sea

environments. The form should make it clear that this information will be used to allocate funds to these fishery types;

- the information from (1) be used, in conjunction with research funded through the licence fee trust, to determine average recreational catches per unit of effort with a view to estimating the recreational catch in each defined fishery; and
- the information derived from (2) be used to allocate licence fee revenue to research and management programs relating to fisheries with the greatest recreational effort.

Response

See the response to recommendation 10.

Recommendation 12

That the recreational fishing licence trust fund be used to research the effectiveness of present recreational fish size and bag limits, new methods to control recreational catches and the size and extent of black market fishing activity with a view to refining mechanisms to manage non-commercial fishing effort.

Response

See the response to recommendation 10.

Recommendation 13

That the Government amend Part 3 of the Fisheries Management Act 1994 to provide for a recreational share holding in share management fisheries, based on the recreational component of the catch for each fishery, with management and community contributions for such share holdings to be drawn from the recreational fishing licence trust.

Response

See the response to recommendation 10.

Recommendation 14

That the Government amend the restricted fishery regulations to provide for a recreational allocation of TAC for restricted fisheries based on the recreational component of the catch for each fishery, with any consequential financial contributions to be drawn from the recreational fishing licence trust.

Response

TACs have only been set for the lobster and abalone share management fisheries, not for any restricted fishery. With respect to the recreational fishing licence trust please see my response to recommendation 10.

Recommendation 15

That the Government, when setting up the recreational fishing licence trust, empower the board of trustees to buy the shares of commercial fishers in share management fisheries on behalf of recreational fishers.

Response

See the response to recommendation 10.

Recommendation 16

That the Government, when amending the Fisheries Management Act and associated regulations in accordance with Recommendation 13, provide for the purchase of part of any recreational share holding by commercial fishers.

Response

This recommendation is not supported.

Recommendation 17

That the Government release its Coastal Policy without further delay.

Response

The Coastal Policy has already been released.

Recommendation 18

- 1) The Office of Natural Resources and Policy review, as a priority, all natural resource legislation relating to integrated land and water management and development in the coastal zone.
- 2) The performance measures for the review shall be:
 - a) to rationalise, simplify and strengthen the legislative framework (60 Acts) which currently manage NSW Coastal zone.
 - b) the creation of clear and accountable lines of responsibility and management of coastal resources by state agencies.
 - c) a clear separation of the roles of resource management, resource use or extraction regulation, and the monitoring and reporting of the State of NSW coastal resources.

- d) provision for a compulsory mechanism whereby agencies share and consult in a strategic manner regarding decisions which affect natural resources in the coastal zone.
- 3) That the coastal resources review be implemented in this calendar year and report back to Government by June 1998.

Response

The Coastal Committee is responsible for administering and overseeing the implementation of the Coastal Policy, which details the Government's strategic approach to coastal management issues and specifies who has responsibility for each strategic action. The need for legislative change is a question for the Government as a whole, and one which the Government keeps continually under review.

Recommendation 19

That an adequately resourced task force, including representatives of the Department of Land and Water Conservation, NSW Agriculture and NSW Fisheries, be established immediately. This task force should be charged with concurrently:

- reviewing the legislative framework related to acid sulphate soil run-off with a view to removing contradictory provisions so that the regulatory agencies (for example, EPA, DLWC, NSW Fisheries) can more effectively manage impacted areas; and
- assessing the effectiveness and necessity of existing drainage works with a view to recommending the removal, redesign or relocation of drainage works to the relevant Minister(s).

Response

The Government achieves co-ordinated management of the acid sulphate soils issue through its Acid Sulphate Soils Management Advisory Committee (ASSMAC) which reports to the Minister for Agriculture through the Water CEOs group (this group comprises the CEOs of the major natural resource management agencies, and exists to co-ordinate activities, and provide a whole-of-government response to important issues). The Government has previously identified the need to review some legislation, in particular the legislation relating to Drainage Unions. This review is being undertaken by the Department of Land and Water Conservation in consultation with ASSMAC and the Water CEOs. The issue of removing existing drainage works can be considered by ASSMAC as the need arises, but may also be considered in the weir review process currently being undertaken as part of the Government's Water Reform Package.

Recommendation 20

That NSW Fisheries, in consultation with the National Parks and Wildlife Service, conduct an extensive research survey to identify key areas of habitat along the New South Wales coast for classification as Marine Parks.

Response

This work has been underway, in one form or another, for some years and a number of areas suitable for declaration as Marine Parks or aquatic reserves or intertidal protected areas, have already been identified. This process is ongoing.

Recommendation 21

That the Government ensure that the Fishways Program is adequately funded to enable the removal of unnecessary barriers to fish migration and the installation of suitable fishways where necessary. The programme should set targets for the removal of barriers within one year of the tabling date, and report to Parliament within five years.

Response

A steering committee, comprising the Department of Land and Water Conservation and NSW Fisheries, has recently been established to ensure that the fishways program has a statewide and strategic focus, that it sets achievable outcomes, and that it provides the best return for the dollar. The program is also being strategically linked with the weir review program being undertaken as part of the Water Reform Package, to ensure the full range of options are considered for each weir.

Recommendation 22

That the Government make available the funds necessary to expedite the work of NSW Fisheries and the Department of Land and Water Conservation into methods of ameliorating the thermal effects of large impoundments. The aim of this work should be the prioritisation of the capital works necessary to alleviate the cold water pollution throughout the State with a view to implementing a staged conversion program.

Response

Some funds have recently been available to NSW Fisheries from the Water Irrigators Funds to undertake some research on how the thermal impacts of weirs can be ameliorated. It is proposed that the research be undertaken at Burrendong Dam. Once the results have been evaluated, the need and priority for additional capital funds to modify existing weirs can be assessed.

Recommendation 23

That the Department of Land and Water Conservation expedite its river bank willow eradication programme with the financial and non-financial support of the programme's beneficiaries, including funds raised through a recreational licence fee.

Response

This recommendation will be referred to the Department of Land and Water Conservation for consideration.

Recommendation 24

That NSW Fisheries, in co-operation with DLWC and the Murray Darling Basin Commission, develop and commence a pilot study in the Macquarie Valley with the specific goals of estimating the combined effects on native and introduced fish species of:

- the partial restoration of the river's natural flow regime in accordance with the Macquarie Marshes Water Management Plan;
- the elimination of cold water pollution downstream of Burrendong Dam; and
- the removal of barriers to fish migration and the installation of fishways (in conjunction with the Fishways Program)

The results of this pilot study should be used to determine the most effective methods of restoring inland fish habitats across New South Wales.

Response

The Government is already tackling all three parts of this recommendation. Ways to ameliorate the impacts of cold water pollution are being assessed through an irrigator funded research program (see my response to Recommendation 22). The other recommendations are being addressed as part of the Carr Government's water reform package, which is being applied statewide not just in a pilot program in the Macquarie Valley, and in association with the Government's fishway program.

Recommendation 25

That an interdepartmental task force be formed to identify geographic zones within New South Wales suitable for specific types of aquacultural development. This task force should consist of representatives from NSW Fisheries, the Department of Urban Affairs and Planning, the Environment Protection Authority, the Department of Land and Water Conservation, and other relevant agencies and be charged with developing a strategic plan which:

- outlines clear and zone-specific criteria against which aquaculture development applications will be judged. These criteria should include environmental parameters;
- can be used as the basis of aquaculture development plans as provided for under Part 6 of the Fisheries Management Act 1994;

- provides for a predetermined period of community consultation, including public advertisement of proposals and provision for public submissions; and
- nominates a lead agency to act as the point of contact in the development approval process and co-ordinate the responses of other agencies.

Response

The principle of inter-departmental committees for the resolution of cross jurisdictional issues is supported.

Planning is currently being undertaken on a regional basis. The Northern Coastal Region Aquaculture Development Plan is presently being developed by NSW Fisheries in conjunction with the EPA and the Department of State and Regional Development.

Section 284 of the Fisheries Management Act 1994 already prescribes the statutory public consultation procedure for any aquaculture industry development plan.

Problems exist with the nomination of a lead agency as a single point of contact because of the relative legislative responsibilities.

Recommendation 26

That NSW Fisheries be given a statutory obligation to consult with relevant seafood marketing bodies prior to committing significant funds to research the suitability of particular species for aquacultural production.

Response

The Advisory Council on Fisheries Research has a seafood marketing and processing representative who provides the views of the marketing sector on any proposed aquaculture research. This representation will be reflected in a Regulation to be gazetted shortly.

Recommendation 27

That the Director of Fisheries be advised of research results but not hold power of veto over the publication of those results.

Response

The Director of Fisheries, together with the Director of Research is responsible for the research output from the Department, including its quality. The process of internal peer review is common to all research establishments to ensure quality output prior to external peer review. Poor quality research reports will always be subject to revision, reworking or rejection on a case by case basis.

Scientific papers do more than just report results, however. They often interpret the results obtained and frequently provide advice on the management of a fishery. That interpretation needs to be critically reviewed not just by researchers but also by managers and the Executive (including the Director of Fisheries) in order to assess its value, feasibility and consistency with Government policy.

Recommendation 28

That the Advisory Council on Fisheries Research should identify, as a priority, a consultative process to develop clear and consistent guidelines for the Department and the Advisory Council on Fisheries Research for the identification, prioritisation, assessment, peer review and publication of research. This process should identify a consultative role for each Advisory Council and Management Advisory Committee.

That NSW Fisheries engage each Advisory Council and Management Advisory Committee in the process of identifying key research and data needs.

Response

This is already being done through the involvement of the Advisory Council on Commercial Fishing, and commercial fisheries Management Advisory Committees. Identified research matters are referred to the Advisory Council on Fisheries Research for prioritisation, particularly where external funding is sought. This role will also be adopted by the Advisory Council on Conservation.

Recommendation 29

That Aboriginal community licences be introduced and that "general purpose licences" be developed to accommodate the indigenous fishing methods of the Aboriginal commercial fishers in the assessment of catch history.

NSW Fisheries should review catch history requirements for indigenous fishers who have been excluded under current restricted fisheries regulations.

Response

The needs of aboriginal people are currently being assessed through the development of the Indigenous Fishing Strategy. Appropriate management arrangements will be introduced when their fisheries needs have been identified, while ensuring the integrity of ongoing management schemes.

All aboriginal and non-aboriginal commercial fishers were included in the exhaustive catch validation review process. Avenues for review of eligibility for endorsements are available through Division 6 of Part 8 of the Fisheries Management (General) Regulation 1995.

Recommendation 30

That NSW Fisheries establish an Indigenous Resource Management Committee as a priority. This committee should be constituted under the Fisheries Management Act 1994. The Indigenous Resource Management Committee should have representation from the following stakeholders:

- NSW Aboriginal Land Council;
- Department of Aboriginal Affairs;
- Aboriginal and Torres Strait Islander Commission (NSW);
- Indigenous commercial fishers;
- Indigenous recreational fishers;
- NSW Fisheries; and
- Nature Conservation Council.

The Committee should aim to progress indigenous access to fishers and provide representation to RACAC (see Recommendations 31 and 32).

Response

NSW Fisheries is working closely with the NSW Aboriginal Land Council, Department of Aboriginal Affairs, Aboriginal and Torres Strait Islander Commission (NSW), and indigenous recreational, commercial and traditional fishers to develop an Indigenous Fishing Strategy as part of a national approach funded by the Commonwealth FishCare Program.

The proposed change to RACAC is not supported at this time.

Recommendation 31

NSW aquatic resources, including fish and fish habitat, be assessed as part of the continuing work of RACAC so as to provide an accurate, current and ongoing assessment statement of the state of NSW fisheries.

Response

NSW Fisheries has recently published for the first time status reports on each of our major fisheries. It is intended to continue, and expand, the monitoring of these stocks; to report on the results of this monitoring each year in our annual report; and to use these reports as a basis for determining research priorities for each fishery, and to assess management strategies. There is no need for any involvement by RACAC.

Recommendation 32

That the Fisheries Management Act 1994 be amended to provide for the provision of adjustment assistance and/or the payment of compensation to commercial fishers who either

are excluded from their fishery as a result of a resource allocation decision (e.g. marine park) or wish to surrender their endorsement. Specific compensation and structural adjustment packages should be determined by RACAC.

Response

The Government will not amend the Fisheries Management Act 1994 for this reason, but will consider the provision of adjustment assistance on a case by case basis. Fishers who simply surrender their endorsement will not be paid compensation. The Government does not support the proposed involvement of RACAC.

Recommendation 33

That a Fishing Industry Structural Adjustment Unit of NSW Fisheries be established to determine, in consultation with RACAC and affected stakeholders, individual structural adjustment packages. The Government must ensure that this Unit is adequately funded.

Response

The Government has formed an inter-departmental committee to consider options for structural adjustment in commercial fisheries, including likely sources of funding. The committee has met once.