
From: Alyce Umback
Sent: Wednesday, 5 October 2022 3:00 PM
To: Portfolio Committee 4
Cc: Sarah Fairfull; Sarah Newlands; Ros O'Brien
Subject: Post-hearing responses - Inquiry into the commencement of the Fisheries Management Amendment Act 2009 - 19 August 2022 - D22/52957
Attachments: 19 August - Items taken on notice.docx
Categories: AQON

Hi Sarah,

Please find attached the DPI responses to questions taken on notice at the 19 August Inquiry hearing, along with transcript corrections.

In relation to requests for additional information to inform the Committee's deliberations, DPI Fisheries and our Aboriginal Fisheries Business Development Program partners, (the Department of Regional NSW (Office of Regional Development), the Department of Aboriginal Affairs, the NSW Aboriginal Fishing Advisory Council, the Fisheries Research and Development Corporation and the Indigenous Land and Sea Corporation), are pleased to advise that the new Aboriginal Fisheries Business Development Program was launched on 29 September 2022 (see also [media release](#)).

The new two-year Program aims to support the development and establishment of up to three new Aboriginal community owned fisheries businesses that will result in benefits flowing back to Aboriginal communities. These businesses can include aquaculture operations, commercial fishing, charter fishing, post-harvest processing, shark mitigation, aquatic-related tourism and hatcheries for freshwater fisheries.

An 8-week statewide Expression of Interest process is now open with applications accepted up until 5pm Friday 25 November 2022. The application form and Guidelines for Applicants are available at <https://www.dpi.nsw.gov.au/fishing/aboriginal-fishing/aboriginal-fisheries-business-development-program>

To be eligible, applicants must be an Aboriginal community-owned entity or business and they are required to explain the social and economic benefits their participation will have for their communities. The program is part of the NSW Government's response to the Closing the Gap national targets, aiming to increase Aboriginal and Torres Strait Islander people's legal rights or interests in the sea.

The program partners will work with the successful applicants to prepare feasibility studies and business cases for their chosen business, before helping them explore funding and investment options. This collaborative program will also be used to develop business models that could easily be replicated across NSW and help businesses in other areas to be more successful. Existing Aboriginal commercial fisheries and aquaculture businesses are able to apply to the Aboriginal Fishing Trust Fund for funding support.

If you would like further information or have any questions on the above or attached, please let us know.

Kind regards,
Alyce

Alyce Umback | A/Manager Communications Strategy

Questions taken on notice:

- **Details of cultural training for Fisheries Officers – providers, topics, format – is NT included? – [transcript page 47](#)**

Cultural Awareness Training is provided to all Fisheries Officers by You Me Training, a Queensland based company. The trainers are both Yirrganydji men (Cairns to Port Douglas Traditional Owners) with significant work histories in cultural heritage, natural resource management and regulatory compliance, including fisheries and Police.

The Cultural Awareness Training is run over one full day and covers topics including:

- Welcome to Country (involving local elders of the Country where the training takes place)
- Overview of Native Title
- Removal of prohibition
- Section 211 / 223 of the Native Title Act 1993
- Practical activities
- Requirements to be met
- Changing methods
- Interactions with Indigenous Fishers
- Communication Tips

- **Does DPI Fisheries have a rewards system for reporting fisheries offences? - [transcript page 48](#)**

Yes, similar to other NSW Government illegal activity citizen reporting programs (e.g. [Crimestoppers](#), [Report a Tossler](#), [Report Illegal Dumping](#)), there is a program for people to report illegal fishing and activities harming fish habitats. The Fisheries reporting program does have monetary rewards for the reporting of fisheries offences, however these are contingent on the issue of fines, remediation orders or successful prosecutions of offenders, alongside other factors. In the past 10 years there have been 7 rewards paid, ranging from \$250 to \$1250.

For further information please see [Monetary rewards \(nsw.gov.au\)](#).

- **When confiscated equipment is sold, what happens to the proceeds? - [transcript page 48](#)**
 1. Section 275 of the *Fisheries Management Act 1994* (below) provides that forfeited property becomes property of the state, as well as the proceeds of the sale of that property. If the equipment is forfeited to the Department, it is either destroyed, retained or sold.

275 Forfeited things to become the property of the State

(1) A thing forfeited, or ordered by a court to be forfeited, under this Part (or the proceeds of sale of any such thing) becomes the property of the State.

(2) Any such thing may (subject to the regulations) be sold or disposed of in such manner as the Minister thinks fit.

- **Withdrawals of charges when matters proceed to court - how many matters have been withdrawn since s21AA assented to (December 2009) and the reasons why - transcript page 49**

A total of 24 matters (cases against individual persons) have been withdrawn by the Department since December 2009. A list of the reasons why matters have been withdrawn includes:

- Defendants produced information in support of a Native Title defence after proceedings commenced and as a result the charges were withdrawn
 - Prosecutor declined to disclose documents and as a result the charges were withdrawn
 - Evidentiary issue identified after commencement
 - Defendant passed away
 - Potential pleas of double jeopardy once Victorian Fisheries Authority proceedings subsequently commenced
- **Advice on whether there has been any correspondence from DPI to Government advising not to commence s21AA or on timing of s21AA – transcript page 55**

The approach consistently supported by the Department of Primary Industries in its advice to the NSW Government is that section 21AA, which creates a head of power to create cultural fishing regulation, should be commenced with accompanying regulation.

Aboriginal community consultation on statewide cultural fishing regulation was undertaken with a key focus on maintaining the system of take and possession limits across resource use sectors in order to provide an essential mechanism for sustainable management of the fisheries resource.

Differing take and possession limits to that of other sectors were drafted with input of the Aboriginal Fishing Advisory Council with a view to have a regulation commence in concert with section 21AA. However, based on later feedback from NSW Aboriginal Land Council, NTSCORP and the Aboriginal Fishing Advisory Council, the statewide regulation approach was halted and the current Local Management Plan (LMP) trial identified as a potential pathway to provide a management solution for Aboriginal cultural fishing was commenced as an alternative solution.

The two year trial of Hastings and Tweed LMPs will inform Government on the best model to take forward including the potential commencement of s21AA.

The Aboriginal Fishing Interim Access Arrangements, section 37 cultural fishing permits and marine park permits remain in place to ensure that cultural fishing access is continued and supported across the state during the trial period.