
From: Penny Davidson
Sent: Sunday, 2 June 2024 4:50 PM
To: Portfolio Committee 7;
Subject: RE: Inquiry into the planning system and the impacts of climate change on the environment and communities - Post hearing responses
Attachments: Transcript - 3 May 2024 - HIGHLIGHTED FOR QON.pdf; question on notice_2 June 2024.pdf

Dear David

Please find attached our answer to the question on notice.

I have also attached the transcript with 2 minor suggested amendments – additions of words. The corrections are inserted as comments in the pdf.

Warm regards

Penny

PORTFOLIO COMMITTEE NO. 7 - PLANNING AND ENVIRONMENT

Question on notice:

The Hon. SCOTT FARLOW: One of your recommendations was around the department. Effectively, it was around moving the marine parks from Primary Industries to Environment. What sort of impact have you seen with that so far in the assessment process?

BRUCE McKENZIE: When they work with Primary Industries, they're working on a profit basis. That's what it's about: making money out of agriculture and aquaculture and so on. Therefore it prioritises those sorts of things over conservation. It doesn't reject that conservation is there. It's the privatisation that goes on in the minds of the people that you're working with all the time. We believe, if it was in the other department, it would still have to be considered for Fisheries and other things as profit-making, but now you would have a prioritisation of conservation. It's that mindset that we're particularly concerned about, and we run into that mindset when we're dealing with Primary Industries.

The Hon. SCOTT FARLOW: Have you found that to be the case in terms of your current engagement with them? Or is this more of a fear?

BRUCE McKENZIE: I don't know. I'll take that on notice because the person who's dealing with that—

The Hon. SCOTT FARLOW: I was just wanting to see if you have any particular examples in terms of how that's been assessed.

Answer:

Fisheries purpose is to manage the use of resources, Marine Parks purpose is to conserve the marine environment. It is akin to having Forestry in charge of National Parks.

The examples of Fisheries decisions and action contradicting the purpose of Marine Parks are:

Permitting illegal fishing in Sanctuary Zones

In December 2019, the NSW DPI announced a fishing amnesty in several Batemans Marine Park Sanctuary Zones (see email links below for details). There was no change to the Marine Park Regulations (see <https://legislation.nsw.gov.au/view/html/inforce/current/si-1999-0102#pt.7-div.2>) so these laws are still in place – that is it is illegal to fish in these areas. This was well advertised at the time in press releases, and this “amnesty” is still supposedly in place – though details of the press releases are no longer on any DPI websites.

See Ms Cate Faehrmann's questions in NSW Budget Estimates 21 Feb 2024 (page 11-12):

[https://www.parliament.nsw.gov.au/lcdocs/other/19099/Transcript%20-%20PC4%20-%20Budget%20Estimates%20\(Moriarty\)%20-%2021%20February%202024%20-%20HIGHLIGHTED%20for%20QoN.PDF](https://www.parliament.nsw.gov.au/lcdocs/other/19099/Transcript%20-%20PC4%20-%20Budget%20Estimates%20(Moriarty)%20-%2021%20February%202024%20-%20HIGHLIGHTED%20for%20QoN.PDF).

This is not a legislated removal of the sanctuary zones that would have had the opportunity for public comment, nor is it an act that has been endorsed by Marine Parks (that we can see in any public material). One sanctuary zone where staff have been told not to prosecute fishers is around Montague Island. The sanctuary is important to maintain habitat and food source for the seabirds that breed on that island, for the seals that live around the island. Not enforcing the sanctuary, which can hardly be legal, endangers not only the aquatic life but also the sea birds and marine mammals.

Please read the following:

<https://aboutregional.com.au/recreational-fishers-hit-back-at-claims-batemans-marine-park-rezoning-is-threatening-marine-life/362205/>

<https://www.theland.com.au/story/6539837/fishing-on-the-hook-in-south-coast-marine-park/>

<https://www.abc.net.au/news/2019-03-14/nsw-marine-park-advisory-independence-questioned/10898322>

<https://www.theguardian.com/australia-news/2019/mar/14/andrew-constance-tells-fishers-he-influenced-makeup-of-marine-park-committee>

<https://www.smh.com.au/environment/conservation/fish-massacre-fisheries-staff-feared-easing-of-marine-park-controls-20201125-p56hw1.html>

<https://www.smh.com.au/environment/conservation/worrying-sign-rollback-of-protection-puts-marine-park-status-at-risk-20201019-p566h8.html>

Senior Recreational Fisheries Managers with roles in NSW Marine Parks found knowingly fishing in Sanctuary Zones

There is also the example of illegal fishing in Sanctuary Zone by Senior Recreational Fisheries Manager (Jim Harnwell) who reportedly is very familiar with the Jervis Bay Marine Park and has a role in making decisions on that Marine Park and the wider NSW Marine Park network.

[see NSW Budget Estimates 2022 pages pp 17, 26-28:

<https://www.parliament.nsw.gov.au/lcdocs/other/17667/Transcript%20-%20PC%204%20-%20Agriculture%20and%20Western%20NSW%20-%205%20September%202022%20-%20QoN.pdf>

This suggests that the culture within Fisheries itself is not supportive of the Marine Park purpose.

Limited Marine Parks communication to the NSW people

Marine Park staff used to regularly talk on local radio and other media, and give public talks and engage with the community in various ways – we haven't seen them since they moved to Fisheries. From talking to people around the area we believe that a promotional marine park video/documentary involving various locals and stakeholders was made (costings many tens of thousands of dollars) but has not been released to the NSW public. Please request details of such video/documentaries from NSW Marine Parks managers for more information.

Research on NSW Marine Parks is now invisible under NSW DPI Fisheries

When Marine Parks were under the Environment they were responsible for all marine animals, and were undertaking research and compliance on all. We struggle to find out exactly what is that status of our marine ecosystems, or what research is being undertaken. Is any being undertaken? Are our marine ecosystems being scientifically monitored?

Illogical authority for wellbeing of marine animals

Again, since Marine Parks has moved to be under Fisheries they are no longer responsible for marine mammals, or shore birds. Their emblem used to be the tail of a whale! This has huge on-ground ramifications, for example Jervis Bay has many jetski users, some of whom unfortunately have been reported to be harassing dolphins. But marine parks have no authority to intervene – the responsibility now lies with National Parks who do not have a boat nearby – the closest being Ulladulla.

NSW DPI Fisheries priorities have been pushed over conservation in NSW Marine Parks

There is a very real impact on the management of the marine park of having it in a department that is focused on monetising our resources as opposed to managing for conservation values.

One example of the impact was mentioned at the hearing – the approval and construction of a mussel farm within Jervis Bay Marine Park.

The Marine Park Act clearly makes the primary purpose of the marine park to conserve the biological diversity, and maintain ecosystem integrity and ecosystem function, of bioregions in the marine estate, and other activities can take place as long as they don't harm the primary purpose.

There are a number of concerns regarding the process in the establishment of the mussel farm in Jervis Bay, namely:

- We question the legitimacy of the process. The promotion of mussel aquaculture by NSW DPI Fisheries was the author of the mussel aquaculture application and was also the author of the environmental impact statement.
- Legislation requires only native species can be farmed, but the species being farmed is internationally recognised as an invasive species. According to Popovic et al (2021) and Borschmann (2022) the native species is *Mytilus planulatus*, but the species being farmed is *Mytilus galloprovincialis*. Fisheries and the manager of the mussel farm spent a lot of effort telling the local community that they are engaging in sustainable farming of a native species. The community is now feeling seriously misled.
- The application and supporting documents for the original application are inconsistent: The conditions of consent and Environmental Impact Assessment refer to different species of mussel to be farmed (*Mytilus galloprovincialis* vs *Mytilus edulis*). There is no acknowledgment that the native species is *M. Planulatus*.
- There is no public record of an independent comment from Marine Parks on this application or their involvement in the management of the mussel farm, and yet the activity is to occur IN a marine park – this suggests that Marine Parks is not controlling what is happening in the marine park.
- This activity can only legitimately occur if there is no harm to the environment, but numerous locals have reported seeing mussels in places they haven't seen them before, a dive operator reports young Port Jackson Sharks under the mussel farm – an indication of species displacement, the Environmental reports undertaken since have noted 'significant' difference to the Baseline date but then say 'not enough is known to attribute to the mussel farm'. This point alone should trigger the Precautionary Principle – something is happening and rather than continue in a direction of possible harm the change is ignored.
- In addition, there is now evidence of pest species in Jervis Bay, that are also present in Twofold Bay (where the mussel spat comes from) – the Green Shore Crab. The biosecurity threat from transporting spat from Twofold Bay – which has a high level of international boat traffic - was warned against in the paper by Joyce et al 2010, which overall endorsed the mussel farm.

In short, there is no evidence of Marine Parks commenting, or advising on this economic activity in the marine park – even though it is they that should be overseeing its management.

The prioritising of economic activity over the conservation values now looks like it has set Jervis Bay up to lose those conservation values as the reports of mussel spread is increasing, and the number of invasive species is increasing.

Rather than put more resources into research and dealing with the conservation threats DPI seem more concerned about economic activity.

In our opinion and experience Department of Primary Industries being in charge of the Jervis Bay Marine Park is an oxymoron.

We suggest that putting Marine Parks back with the Environment department, where the goals of conservation more clearly match.

O. Borschmann (2022). Musselling Up: Assessing the large-scale effects of introduced source populations of *Mytilus galloprovincialis*. Honours Thesis, University of Wollongong.
<https://ro.uow.edu.au/thsci>

Popovic, I., Bierne, N., Gaiti, F., Tanurdzic, M. & Riginos, C. (2021) Pre-introduction introgression contributes to parallel differentiation and contrasting hybridization outcomes between invasive and native marine mussels. *J Evol Biol.* 34:175–192.