



Industry &
Investment

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Mr John Young
Select Committee on Recreational Fishing
Parliament House
Macquarie Street
Sydney NSW 2000

Dear Mr Young

Thank you for your letter of 22 April 2010 to Mr Paul O'Connor, Principal Director, Fisheries and Compliance, regarding the inquiry into recreational fishing hearing on 19 April 2010. Mr O'Connor has asked me to respond on his behalf.

Mr Paul O'Connor, Mr Peter Turnell and myself appeared before the Committee on 19 April 2010. As requested, please find attached the transcript with details of transcription errors. Responses to questions taken on notice at the hearing and additional questions provided by the Committee are also enclosed.

If you need any further information, please do not hesitate to contact me on (02) 9527 8522.

Yours sincerely

Bryan van der Walt
A/Manager, Recreational Fisheries Programs

INDUSTRY AND INVESTMENT NSW

QUESTIONS ON NOTICE: SELECT COMMITTEE ON RECREATIONAL FISHING

INQUIRY INTO RECREATIONAL FISHING

19 April 2010 hearing

QUESTION

There has been a long-term campaign to get the prawn trawlers out of Lake Wooloweyah. An enormous amount of work has been done by Fisheries and Aquaculture and the prawning industry to ensure that the bycatch problem is reduced. It appears that the campaign has not been pursued by any particular group - sometimes it has been pursued by environmentalists and sometimes by recreational fishers.

Provide information about the kind of issues that arise in that process.

ANSWER

Industry & Investment NSW is aware of representations from time to time to ban commercial fishing from Lake Wooloweyah, originating from a variety of individuals or groups, such as recreational fishers, conservationists or residents living around the lake. The key issue raised during such representations is the potential impact of trawling on seagrass. This issue has been addressed previously through the Estuary Prawn Trawl Fishery Management Strategy and further discussed as part of the development of the Coastal Zone Management Plan for Wooloweyah Lagoon prepared by the Clarence Valley Council.

Industry & Investment NSW has also undertaken several research projects on improving the selectivity of prawn-catching gear and reducing unwanted bycatch. One project in particular led to the introduction and mandatory use of square-mesh codends in the Estuary Prawn Trawl Fishery. Further to this, Bycatch Reduction Devices (BRDs) must be fitted in all Estuary Prawn Trawl nets. Permitted BRDs are subject to ongoing review and research by Industry & Investment NSW.

QUESTION

Provide information about trends in licence sales since their introduction?

ANSWER

The total number of fishing licences has increased from 2001/02 to 2008/09 as shown in the table below. However, it is evident that licence sales are variable from year-to-year for a variety of reasons, including licence renewals, fishers choosing to purchase three year licences instead of annual licences, drought, and fishing conditions based on ocean currents and weather.

Compliance rates with the requirement to have a fishing licence would also influence licence sales figures.

Licence sales increased significantly in 2008/09 compared to the previous year mainly because of the integration of the Industry & Investment NSW recreational fishing licensing system to the Government Licensing Service. This integration facilitated the introduction of plastic fishing licences and a renewal system, which promoted an increase in three year licence sales. Although recreational fishing licence sales may give some indication of recreational fishing effort in NSW, many fishers do not require a licence including pensioners, people under the age of 18 and Aboriginal people.

Year	Number of licences sold
2001/02	465,274
2002/03	474,448
2003/04	516,493
2004/05	523,164
2005/06	504,858
2006/07	490,716
2007/08	488,058
2008/09	528,235

QUESTION

What percentage of fish is imported as compared with locally caught fish?

ANSWER

Industry & Investment NSW is responsible for sustainable management of fishing activities in the State and does not routinely collect data on the source of seafood consumed in NSW. Accordingly, we refer to the answer to that same question given by Mr Grahame Turk (Managing Director of the Sydney Fish Market) as part of his evidence provided on 19 April 2010, wherein he stated "it is somewhere between 70 and 80 per cent of Australia's seafood that is imported, and that does include the canned tuna, the canned salmon and the frozen fish fingers and that sort of stuff."

QUESTION

Are more fish being taken of a smaller size now than there were 30 or 40 years ago?

In line with that, provide a more recent example, that is, prior to the establishment of the marine parks, perhaps, five years ago or something in that timeframe which would also indicate the quality of the fish stock, whether it has run down as a result of the lack of regulation?

ANSWER

With regard to fish size, information is available on key fish species, which is mainly based on landings of commercial fishers. Size information over time is

available for a large number of species and is summarised in the I&I NSW publication titled ' Status of fisheries resources in NSW 2006/07'. Fish size comparisons over significant periods such as 30 or 40 years are difficult because of changing management arrangements for most species e.g. increases in size limits will influence the average fish size before and after the size increase. Gear modifications can also influence size of fish caught by commercial fishers. However, details on the length composition of commercial landings of some key species are provided below (extracted from the above publication):

- The length composition of yellowfin bream has been reasonably stable since the 1940s.
- The length composition of dusky flathead was relatively stable from the 1970s to the 1990s. There was also an increase in the relative proportion of large sized flathead (greater than 40cm) in commercial catches during the period 1995 to 1997.
- The length composition of snapper has been comprised mainly of fish between 25 and 40cm fork length. In 2001 the size limit of snapper was increased from 28 to 30 cm total length, however the majority of fish in recent years are still within a few centimetres of the size limit and the proportion of large (>40cm fork length) snapper remains very low.
- The length composition of bluespotted flathead has remained relatively stable since the 1970s, and is comprised mainly of fish between 35 and 50cm total length.
- The proportion of larger (>40cm fork length) grey morwong in commercial landings declined between the 1970s and the 1990s and recent landings have mainly comprised fish between 25 and 40cm fork length. The size limit of grey morwong was increased from 28 to 30cm total length in 2007.
- The length composition of blue swimmer crabs from Wallis Lake has remained relatively stable between 2002/03 and 2006/07.
- The length composition of sea mullet has remained relatively stable since the 1990s and comprises fish mainly between 30 and 50cm fork length.
- The length composition of silver trevally has declined between 1980 and 2000 and recent catches have comprised fish mainly between 20 and 30cm fork length.

There is limited size information on fish caught by recreational fishers, however, a comparison of size from two recreational fishing surveys of inshore angling carried out over 2 sampling years in 1993-1995 and 2007-2009 for 5 popular species is provided below:

The data shows that the average size of most species varied slightly between the two surveys. However, there appears to have been a two to three centimetre decrease in the average size of silver trevally between the two surveys. The data presented is for the Greater Sydney region to enable a comparison between surveys.

Species	Average size (fork length)			
	1993/1994	1994/95	2007/08	2008/09
Eastern Blue-Spotted Flathead	42	41	43	42
Grey Morwong	34	33	36	38
Snapper	31	33	34	34
Sweep	26	27	27	26
Silver Trevally	35	33	32	31

Survey 1: Steffe et al. (1996). An assessment of the impact of offshore recreational fishing in NSW waters on the management of commercial fisheries. Final report to FRDC, Project No: 94/53.

Survey 2: Steffe, A. & Murphy, J. (2010). Greater Sydney Recreational Fishing Survey, I&I NSW Final Report Series (in prep).

QUESTION

- a) What is the per hectare supervision, if possible, of NSW coastal waters and inland rivers by compliance officers?
- b) How does the 92 officers in NSW compare to other Australian States in the number of officers for the area that has to be covered?
- c) Does New South Wales have a higher compliance presence considering the size of New South Wales coastal waters and inland rivers compared to other State jurisdictions?

ANSWER

- a) There are no records kept that identify compliance responsibility by hectare in coastal and inland waters.

Compliance responsibility is focused to area of need determined by demographics of population and fishing activity. There are 67 compliance officer positions based along the coast and within that number there are teams that direct their activities towards areas of most need at any particular time. In addition to that number there are 10 Marine Parks Officer positions who undertake fisheries compliance.

The area of inland rivers is highly variable depending on drought or flood conditions. There are 20 compliance officer positions located in regional inland areas.

In addition, there are 5 positions dedicated to habitat compliance on the coast and habitat and aquaculture compliance on the inland.

Compliance officers move from coastal areas to inland areas and vice versa to participate in targeted overt and covert compliance operations that

maximise voluntary compliance and create effective deterrence against illegal activities.

b) Comparative states of Western Australia, South Australia, Victoria and Queensland all have a similar number of fisheries officers, generally around 100 officers. These states' compliance officers are structured in a number of ways including dedicated uniformed regional fisheries officers, investigation teams and industry specific fisheries officers.

c) All states direct their compliance resources to the area of most fishing activity and maintain a flexibility capacity to rapidly respond to changing demands. Accordingly, it is appropriate to indicate that fisheries compliance resources Australia wide are generally on a par.

QUESTION

How does the compliance rate of 88% for recreational fishers in NSW compare with other States?

ANSWER

Industry & Investment NSW does not currently have the data required to benchmark compliance rates against all other states. However it is recognised that, for example, Queensland advises a compliance rate in its fisheries up to 95% and Victoria records between 80 to 90 %. However a range of variables need to be considered to enable an unbiased comparison. In addition, the costing structures of other states necessitates a different type of compliance rate focus between recreational and commercial fisheries in those states.

In general terms, the compliance costs rise exponentially as the 100% compliance rate is approached meaning that the costs associated with achieving a 100% compliance rate are prohibitive. The 88% compliance rate represents very good value for NSW investment in fisheries compliance.

Also, it is important to note that this raw compliance rate does not account for the range of other activities undertaken by Industry & Investment NSW to conserve, develop and share the fishery resources of the State for the benefit of present and future generations.

QUESTION

To what degree does the hierarchy and the objects of the Fisheries Management Act guide funding prioritisation? Is it consistent with the objects of the Act to be giving more funding to recreational fishing enhancement programs compared to habitat protection and research?

ANSWER

The categories of programs funded by the Recreational Fishing Trusts are broadly consistent with the objects of the Fisheries Management Act,

including the conservation of fish stocks and key fish habitat and promotion of quality recreational fishing opportunities.

Categories of programs funded by the Trusts include:

- Aquatic habitat protection and rehabilitation
- Enforcement of fishing rules
- Fishing access and facilities
- Recreational fishing enhancement programs
- Recreational fishing education
- Research on fish and recreational fishing
- Recreational fishing havens

Section 234 of the Fisheries Management Act 1994 defines what Trust funds can be expended on including:

- fish stocking and other measures to enhance, maintain or protect recreational fishing
- research into fish and their ecosystems
- management and administration of recreational fishing
- compliance with recreational fishing regulatory controls
- consultative arrangements with recreational fishers
- insurance coverage for landowners where recreational fishers use private land for freshwater fishing.

QUESTION

Provide detail on how the percentage of expenditure is decided, including the decision-making process for community expressions of interest in relation to trust funding?

ANSWER

There are no set funding levels for each of the Recreational Fishing Trust funding categories. However, there is an annual review of Trust expenditure to take account of emerging priorities. For example, funding for the Habitat Action Program from the Recreational Fishing Saltwater Trust was increased from \$200,000 to \$500,000 in 2009/10.

An annual expression of interest is widely advertised by the Government each year for funding of Government and community recreational fishing programs from the Recreational Fishing Trusts to improve recreational fishing. This ensures opportunities for participation in Trust investment activities by any organisation, group or individual.

Additionally partnerships between the Trusts, other Government organisations and community groups enable building on initiatives and programs already underway. For example, Trust funding from the Habitat Action Program in 2009/10 was used to leverage twice the amount of seed Trust funding from other organisations to enhance the outcomes of the program.

QUESTION

a) Is the Hexham issue being resolved with the lowering of floodgates and with re-inundation? Because this is a potentially important fish breeding area, where is it up to? Has there been any recent monitoring of floodgates in Hexham? What percentage roughly has been restored over the past decade?

b) There are some other programs that the Department of Environment, Climate Change and Water has been running with Industry and Investment NSW, including the re-inundation of the Yarrahapinni wetlands in South West Rocks.

Provide additional information on the re-inundation of the Yarrahapinni wetlands.

ANSWER

a) The Hexham Swamp Rehabilitation Project is a partnership between private landholders, industry groups, local community and state and federal government agencies and aims to restore 1,946 hectares of Hexham Swamp to a healthy, functioning wetland.

Since the first floodgate on Ironbark Creek was opened in December 2008, a team of scientists has been closely monitoring the impacts of increased tidal inundation in Hexham Swamp. The monitoring has been carried out in accordance with the Operations Environmental Management Plan for the rehabilitation of Hexham Swamp.

In August 2009 researchers discussed their findings from the monitoring conducted in the 6 months since the first gate was opened and targets for Stage 2 of the project. A number of environmental factors were reported on, including wetland hydraulics, water quality, creek bank condition, vegetation, water birds, frogs, fish, crabs, worms, and mosquitoes. The above average rainfall in the 6 month reporting period increased freshwater flows into the swamp and this was found to have had an effect on groundwater, inundation levels and water quality during this period. It was found that effects of tidal flows into the swamp generally did not result in higher water levels as the water flowed out rapidly on the turning tide, and no significant changes were reported for vegetation, fish, macrobenthic invertebrates and mosquitoes.

All of the findings were found to be within the parameters of expected outcomes, and the team recommended that the project proceed to Stage 2, which involved opening another floodgate in December 2009. Monitoring is continuing at Hexham but data to date has not been analysed. Stage 2 reports will be available later this year.

b) The Department of Environment, Climate Change and Water will provide information relating to this question.

QUESTION

What is the breakdown in recreational fishing licences between metropolitan Sydney and other regions?

ANSWER

The percentage of recreational fishing licenceholders in the Sydney metropolitan region is approximately 31% (based on where licenceholder postcode information is available).

QUESTION

How does marketability determine or influence size limit decisions? Please provide an example.

ANSWER

Size limits are set mostly based on biological information although other factors, including marketability, are also important. An example where marketability is a factor includes snapper. In NSW, there is a strong market preference and price premium for small size snapper compared to medium and large size snapper caught and sold by commercial fishers.

It is also important to note that the majority of all commercially caught snapper is taken in the multi species Ocean Trap and Line Fishery. Therefore, when determining alternative management arrangements for snapper, such as a size limit increase, the potential loss of other valuable species need to be considered if increases in trap mesh size are needed to limit the bycatch of undersize snapper to account for an increased size limit.

QUESTION

In relation to bass and spawning at the top of the Clarence, how can this issue be resolved? The bass restriction may stop the fishing of bass at that time but may not stop the netting of other fishes in that area, which can inadvertently deplete the bass.

ANSWER

Commercial fishing in the Clarence River is part of the NSW Estuary General Fishery, which has undergone a comprehensive environmental impact assessment in accordance with the requirements of NSW and Commonwealth law. In particular the Estuary General Fishery and other commercial fisheries are managed using a range of controls such as zoning, minimum size limits, fishing gear specifications, spatial and temporal closures, and restrictions on the capture of by-product species.

Australian bass are protected from commercial fishing in NSW, however, incidental catches of this species may sometimes occur as a consequence of meshing net operations. Strict restrictions on the use of meshing nets in the Clarence River are in place to assist in the long term sustainability of NSW fisheries resources.

The latest scientific information supports Industry & Investment NSW's assessment that the activity is being managed on a sustainable basis.

QUESTION

In a current consultation draft of the Coastal Protection and Other Legislation Amendment Bill, there are exemptions that remove ministerial oversight of the Fisheries Management Act for certain works of protection, such as on the coast. This may impact on aquatic species and their habitat.

a) How important is the Minister's oversight of the works in the coastal zone for the protection of fish stocks and aquatic habitat?

b) Has either department been able to assess that, given that potentially it could be works that are happening in many sections of the coastline in the not-too-distant future?

ANSWER

a & b) The Fisheries Management Act 1994 requires either approval or concurrence for public authorities for dredging and/or reclamation, and harm to marine vegetation (Seagrass, Mangrove Saltmarsh) in State waters. The management of these activities are also guided by the Industry & Investment NSW Policy and Guidelines: Aquatic Habitat Management and Fish Conservation.

The Coastal Protection Act 1979 is currently being amended to include provisions, in relation to temporary coastal works, that will turn off other statutory approval mechanisms. Industry & Investment NSW has previously been consulted by the Department of Environment, Climate Change and Water in relation to the proposed amendments.

Industry & Investment NSW have no objections to the recommended changes which will facilitate rapid landowner responses to storm damage. However, a key concern has been to ensure that the term "temporary erosion protection works" is well defined to avoid people using this process as a way around gaining approvals for long-term, permanent erosion protection works. Industry & Investment NSW propose that this be achieved through only allowing sand or sandbags placed for a period of up to 12 months.

A Code of Practice for temporary works is being developed by the Department of Environment, Climate Change and Water and Industry & Investment NSW will be making comment to ensure that all works encompassed by the definition represent minimal harm to aquatic ecosystems and are temporary as per the agreed definition.

QUESTION

To what degree are environmental protection licences of operations near inland rivers, coastal zones or estuaries integrated and harmonised with

threat abatement plans for fish species and general population management mechanisms under the Fisheries Management Act?

ANSWER

The Protection of the Environment Operations Act 1997 administered by the Department of Environment, Climate Change and Water (DECCW), includes a licensing requirement for certain activities. Environment protection licences are a central means to control the localised, cumulative and acute impacts of pollution in NSW. In particular they aim to:

- protect, restore and enhance the quality of the environment in NSW, having regard to the need to maintain ecologically sustainable development,
- provide increased opportunities for public involvement and participation in environment protection,
- ensure that the community has access to relevant and meaningful information about pollution,
- rationalise, simplify and strengthen the regulatory framework for environment protection,
- improve the efficiency of administration of the environment protection legislation,
- reduce risks to human health and prevent the degradation of the environment

While there is no formal consultation requirement when DECCW assesses and issues licences, there are a range of matters which are taken into consideration when assessing an application for a licence. These include but are not restricted to:

- the 'environmental values of water'* that may be affected by the activity or work, and the practical measures that could be taken to restore or maintain those values.

*'Environmental values of water' – as specified in the Australian and New Zealand guidelines for fresh and marine water quality 2000 (Australian and New Zealand Environment and Conservation Council [ANZECC] 2000)

- A description of the catchment including proximity of the development to any waterways and provide an assessment of their sensitivity/significance from a public health, ecological and/or economic perspective. The water quality and river flow objectives should be used to identify the agreed environmental values and human uses for any affected waterways. This will help with the description of the local and regional area.

The NSW Water Quality Objectives are the agreed environmental values and long-term goals for NSW's surface waters. They set out:

- the community's values and uses for our rivers, creeks, estuaries and lakes (i.e. healthy aquatic life, water suitable for recreational activities like swimming and boating, and drinking water); and
- a range of water quality indicators to help assess whether the current condition of our waterways supports those values and uses.

Water Quality Objectives have been agreed for Fresh and Estuarine surface waters and Marine Water Quality Objectives.

The Objectives are consistent with the agreed national framework for assessing water quality set out in the ANZECC 2000 Guidelines. These guidelines provide an agreed framework to assess water quality in terms of whether the water is suitable for a range of environmental values (including human uses). The Water Quality Objectives provide environmental values for NSW waters and the ANZECC 2000 Guidelines provide the technical guidance to assess the water quality needed to protect those values.

The River Flow Objectives are the agreed high-level goals for surface water flow management. They identify the key elements of the flow regime that protect river health and water quality for ecosystems and human uses.

These Objectives are consistent with, and complementary to the statewide targets developed by the Natural Resources Commission. The Commission has developed a statewide standard and targets for managing natural resources. These take into account the community's established values and goals for natural resources, including those for water.

Additional questions from members

QUESTION

1) Evidence was given on 19 April (transcript pages 64-65) relating to fish kill and acid sulphate soils and the sugar cane industry in NSW.

Can you provide information on the work being done by government departments and the sugar producing industry on this issue to reduce these effects?

ANSWER

Acid sulfate soils are a naturally occurring sub-surface layer found in low lying areas such as coastal estuaries. While inundated with water (either salt or fresh) they remain inert. However, on exposure to the air due to lowering of the groundwater by drainage or extreme drought conditions, the sulfides react with atmospheric oxygen to form sulfuric acid. This acid can lead to large fish kills, as well as provide more chronic conditions that impede reproduction, resistance to disease, respiration etc in a range of aquatic organisms.

Much exposure of acid sulfate soils has resulted from historic drainage practices and it is these overdrained areas that are the target of remediation efforts. For example, in many instances, the deep, narrow drains can be replaced with wide, shallow drains that do not intersect the acid sulfate soil

layer - ensuring good drainage of surface water, yet preventing drainage of the groundwater.

Over many years, the Government has carried out a range of activities that address the above issue.

These have included collaborative on-ground works programs with NSW canegrowers (such as those at Rocky Mouth, Northern NSW) that:

- replaced over-deep drains with shallow, wide systems;
- replaced overdeep drains with laser levelled paddocks that ensure a natural drainage that remove the need for any surface drains;
- filled in redundant drains;

- enabled controlled tidal flushing upstream of floodgates; and
- put 'blocks' in drains to hold water back over drained landscapes

A series of research activities have been completed that examined the impacts of acid sulfate discharge on fish populations and the links with floodplain management regimes. A set of Best Practice guidelines have been produced and published as the "Restoring the Balance" report available at: www.dpi.nsw.gov.au/agriculture/resources/soils/ass/general/balance.

Detailed site assessments have been carried out in some areas, including the example below, that assessed the acid sulfate soils of the lower Hunter estuary: www.dpi.nsw.gov.au/fisheries/habitat/publications/threats/acid-sulphate-soils.

Much of the land underlain by acid sulfate soils is managed for agricultural purposes. Various extension programs have been initiated to inform landholders of ways in which they can best manage the underlying soils. These have seen some success, particularly where landholders have concurrently been able to improve profitability. i.e. Floodplain Grazing program. Details are available at: www.dpi.nsw.gov.au/research/centres/wollongbar/advisory#Floodplain-Grazing-Project.

There are also mechanisms that have been established to enhance communications between the stakeholders that are affected by acid sulfate soils on the coastal floodplains. For example, the Northern Rivers Floodplain Network facilitates knowledge-sharing, latest research findings and development of collaborative projects amongst acid sulfate soil practitioners from Taree to the Queensland border. In addition, I&I NSW produce a national acid sulfate soil newsletter "ASSAY", available quarterly. This can be viewed at: www.dpi.nsw.gov.au/aboutus/resources/periodicals/newsletters/assay.

QUESTION

2) The submission indicates that for some species (e.g. Bream) a daily bag limit of 20 per day applies. A number of submissions, including from anglers, argue that these limits are excessive.

What is the basis for bag limits of this size?

ANSWER

There is a general principle that species that are of high abundance and distributed widely, such as bream, have higher bag limits. Bream are also a relatively small sized species compared to larger species which tend to have more conservative bag limits.

QUESTION

3) Quite a number of submissions made reference to the banning of setlines on inland rivers, noting that this has resulted in a massive decrease in recreational fishing with a resulting impact on local towns that relied on fishing activity expenditure.

Can you outline the rationale behind, and the process for, implementing this ban?

ANSWER

Many fishers have traditionally used set lines. However these lines may not be checked for many hours and research has shown that any undersized or threatened fish hooked therefore has a much lower chance of survival.

A discussion paper reviewing recreational bag and size limits in NSW waters was released for comment in 2005. The discussion paper included a proposal to prohibit set lines in NSW waters. A majority of responses supported the prohibition on the use of set lines and these changes were introduced in 2007. The number of attended lines was also increased to 2 and the distance a fisher may be from an attended line increased to 50m as practical measures to enable anglers to continue to enjoy fishing and camping on our inland rivers.

QUESTION

4) Submissions show that there has been a general call among all stakeholder groups for greater enforcement effort. The Government submission notes (p13) that there are 92 fisheries officer positions and 10 marine park ranger positions.

a) Do you believe there is a need to increase compliance and enforcement activities?

b) When was the last time the number of fishery officer position was increased?

ANSWER

a) Similarly to all compliance and enforcement agencies, it would be desirable to have more resources and it is expected that more compliance resources would provide better a better compliance outcome. However, the compliance

managerial focus is on doing the absolute best with what we have by utilising operational teams, public support and education and intelligence driven strategically targeted operations directed towards areas of most need.

b) Available records show that the establishment of fisheries officers has been relatively stable since approximately 1995. However, with the establishment of Marine Parks there arose the opportunity to increase officer numbers.

QUESTION

5) A number of submissions also made reference to what they saw as overzealous enforcement, particularly in Marine Parks. Are offences within Marine Parks monitored to indentify trends?

ANSWER

The Department of Environment, Climate Change and Water will provide information relating to this question.

QUESTION

6) Can you explain how Aboriginal cultural fishing rights fit within the current regulatory and legislative regime?

ANSWER

Aboriginal cultural fishing is now formally recognised within the objects of the Fisheries Management Act 1994. In line with this, specific provision has also been made under the Act for the authorisation of cultural fishing through permits for organised activities providing scope to set aside rules that would otherwise apply to fishing activity and a definition of cultural fishing has been prescribed to identify what types of activities are covered under cultural fishing. Other associated newly instituted provisions forming part of the full suite of amendments recently introduced also provide for complete exemption for Aboriginal people from the recreational fishing licence, as well as establishing the Aboriginal Fishing Advisory Council (AFAC) to provide advice to the Minister on Aboriginal fishing issues (membership includes up to ten Aboriginal people representing regions around the State; one other Aboriginal person; a representative from the NSW Aboriginal Land Council; a representative from the Native Title Services Corporation; and a non-voting senior departmental representative).

Future management measures promoting the continuation of cultural fishing will be developed in close consultation with the AFAC. The AFAC is seen as the peak advisory group advising the Minister on issues affecting Aboriginal fishing interests and will play an important part in the future development of cultural fishing policy as well as exploring extensions on this looking at commercial opportunities for Aboriginal communities associated with fishing activities. Inaugural membership of this group is now in the process of being established with expectations that membership will be finalised around the middle of 2010.

Nothing within the provisions of the FMA or the regulations alters fishing rights awarded under Native Title determinations or recognised in Indigenous Land Use Agreements associated with claims. In fact under the FMA even the issuing of permits for Aboriginal cultural fishing are not allowed if to authorise the fishing activities and practices concerned would be inconsistent with native title rights and interests under an approved determination of native title.

Additional information will be provided by the Department of Environment, Climate Change and Water relating to this question.

QUESTION

7) There is a general perception among the recreational fishing community that fishing trust funds are being used to fund core Departmental activities, and that not enough is being spent on improving recreational fishing.

What is your response to this view and what can the Department do to change it?

ANSWER

The Recreational Fishing Trusts are overseen by two Expenditure Committees and the Advisory Council on Recreational Fishing. It is apparent from the Inquiry submissions of some organisations that some Trust programs are considered to be the responsibility of the Government. However, a recent survey of recreational fishing licenceholders in 2008 indicated that all current Trust programs were of benefit to recreational fishing and were worth doing to improve recreational fishing.

Anglers and the Trust Expenditure Committees support many of the programs administered by Industry & Investment NSW to improve recreational fishing. The reason the Government administers some of these programs is because Industry & Investment NSW already has the necessary infrastructure and approval process established to run these programs.

The Government has a range of initiatives to promote awareness of how licence funds are spent in NSW. For example, all one and three year licenceholders receive a Trust newsletter (called 'Supporting your sport') with their licence renewal letter. These newsletters are also distributed by Fishcare Volunteers to fishers. There are regular announcements about Trust expenditure. The Recreational Fishing Trust Investment Plan 2008/09-2012/13 provides details of Trust funded programs and is available on the Industry & Investment NSW website. The Government is continuing to investigate ways to inform fishers about the benefits of Trust programs, especially to infrequent fishers, including three day and one month licenceholders.

QUESTION

8) The submission notes (p17) that any approach for additional Recreational Fishing Havens will be considered on a case-by-base basis and take into account stakeholder and community views, as well as seafood supply.

On the Department's current assessment, is there scope for additional Recreational Fishing Havens or have we reached the estimated potential limit?

ANSWER

There has been significant adjustment to the commercial fishing industry in recent years following a range of buyout processes as well as many operational changes to improve environmental performance of the fishery in NSW. Similarly there has been significant promotion of recreational fishing opportunities following the introduction of recreational fishing havens, fish stocking, construction of artificial reefs and deployment of fish aggregating devices. Currently the Government considers there to be a good balance between the level of commercial fishing and provision of local seafood along with the quality recreational fishing opportunities available in NSW. However, there may be some scope for additional recreational fishing havens on a case-by-base basis where there is strong community consensus involving all sectors.

QUESTION

9) There appears to be a perception that when Recreational Fishing Havens were established and commercial interests were bought-out with Trust fund monies, that this resulted in purchase of a right or tenure, on behalf of recreational fishers, to the RFH area.

Can you clarify whether the establishment of RFHs established any right or sovereignty to the RFH area?

ANSWER

The recreational fishing havens are defined in the Fisheries Management (General) Regulation 2002 as areas protected from commercial fishing. Commercial fishers that were bought out during the implementation of the havens surrendered their commercial fishing entitlements, which were permanently removed from the commercial fishery. Therefore, the removal of these commercial fishing entitlements has provided for exclusive use of these areas for fishing by recreational fishers. However, this jurisdiction only applies to fishing and does not extend to the bed of the havens or other water users (except commercial fishers).

QUESTION

10) A Submission from a commercial fisher (sub 11) proposed a scheme whereby commercial fisherman have the ability to buy the right to fish with in RFHs for non-recreational species in very specific area under strict controls.

Do you think there is scope for this type of proposal to be considered?

ANSWER

There is scope to make changes to existing recreational fishing havens where there is strong community consensus involving all sectors. A previous example included the Richmond River haven where local commercial fishers initially developed a proposal to re-open a small area in Shaws Bay to allow mullet hauling to resume, noting that sea mullet are not targeted in large numbers by recreational fishers. In consultation with local commercial and recreational fishers, the Government re-opened the area to sea mullet hauling and in exchange, 27 km of the Richmond River upstream from Tatham Bridge was closed year round to commercial netting.

QUESTION

11) Some submissions have argued that the Department is unlawfully setting and enforcing regulations, such as size and bag limits, for fish that are caught beyond 3 nautical mile limit.

Can you clarify the issue with respect to regulation with State and Commonwealth waters, and any reciprocal arrangements that may apply?

ANSWER

NSW has jurisdiction over recreational fishing in all of the State's inland waters, estuarine waters and adjacent ocean waters inside and beyond 3 nautical miles. The jurisdiction over fishing in ocean waters occurs pursuant to the Coastal Waters (State Powers) Act 1980 [Cth] and a series of arrangements signed in 1990 between NSW and the Commonwealth (commonly known as the fisheries Offshore Constitutional Settlement) and supported by Part 5 of the Fisheries Management Act 1994 [NSW] and Part 5 of the Fisheries Management Act 1991 [Cth].

QUESTION

12) A number of submissions make reference to the displacement of commercial fishing activity when areas are closed to commercial fishing.

How does the Department monitor and manage this situation?

Can you also advise on the management situation with respect to vessels registered in other States commercially fishing in NSW waters?

ANSWER

The Government has always recognised the potential for a shift in commercial fishing effort through reductions in available fishing areas caused by the creation of recreational fishing havens or marine parks. To offset displaced effort, each of those programs has involved the buyout of a large number of commercial fishing businesses that previously operated within the closed areas, as well as fishing businesses that were operating in waters adjacent to or surrounding the closed areas. The ongoing health of the State's fishery resources is assessed through ongoing scientific research projects and

monitoring programs, including the NSW Resource Assessment Framework – refer www.dpi.nsw.gov.au/research/areas/systems-research/wild-fisheries/outputs/2004/382.

Any boat engaged in commercial fishing in NSW must be licensed under the Fisheries Management Act 1994, irrespective of whether they are also registered in other States.

QUESTION

13) The submission details the process followed for the creation of the Port Stephens Great Lake Marine Park. On page 18 it details changes, including boundary adjustments, made to the draft zoning plan in order to improve recreational fishing access.

Did these changes compromise biodiversity conservation outcomes?

ANSWER

The Department of Environment, Climate Change and Water will provide information relating to this question.

QUESTION

14) The submission (p 19) notes the zoning plan for the Port Stephens Great Lake Marine Park is due for review in 2012 to determine whether it continues to meet the objects of the *Marine Park Act 1997*. A large number of submissions from recreational fishers have called for scientific evidence to demonstrate that marine parks are meeting their stated objectives.

Can you summarise what information the review will use to determine if the objects are being met?

ANSWER

The Department of Environment, Climate Change and Water will provide information relating to this question.

QUESTION

15) A number of submission have called for some or certain types of fishing activity to be allowed within sanctuary zones, such as seasonal fishing access for certain species of transient fish.

Is there potential for allowing limited and restricted fishing access to sanctuary zones without compromising its integrity and purpose?

ANSWER

The Department of Environment, Climate Change and Water will provide information relating to this question.

QUESTION

16) The submission notes (p11) that statutory reviews of Marine Park zoning plans occur five year after commencement and then at ten yearly intervals.

Is there potential for reduction in sanctuary zones or only potential for expansion?

ANSWER

The Department of Environment, Climate Change and Water will provide information relating to this question.

QUESTION

17) For each sanctuary zone in NSW Marine Park can you provide the Committee with a list of the fish and marine vegetation species, populations and ecological communities that were the basis for the creation of the zones.

Can you also provide information on the health/state of these populations at the time and any information on their current health and state?

ANSWER

The Department of Environment, Climate Change and Water will provide information relating to this question.