

Mr Shane Howes
Industrial Officer
Public Service Association of NSW
160 Clarence Street
SYDNEY NSW 2000
Email: showes@psa.asn.au

DPI Fisheries Compliance Work Bans

Dear Mr Howes,

I acknowledge receipt of your letter dated 17 September 2024 regarding the work bans imposed by the PSA from midnight on Wednesday 11 September 2024 for its Fisheries Officer members.

This workban does not align with the agreed-upon process established between the Department and the PSA during discussions at Port Stephens, where both parties committed to using a collaborative approach and the Joint Consultative Committee (JCC) framework to resolve issues. We also do not agree with your assertion that the Department has failed to implement adequate safe work systems for the listed compliance activities.

Officer safety issues identified as the reason for the work bans

On the matter of Fisheries Officer safety, I want to reassure you and the FOVB that we take the safety of our Fisheries Officers extremely seriously. It is recognised that the work of Fisheries Officers has inherent risks associated with certain activities and these risks are assessed and managed with great care and attention.

We do not agree with the PSA assertion that the Department requires Fisheries Officers to conduct work in an unsafe environment. Where there are risks, they have been assessed and appropriate mitigation controls put in place through our Safe Work Method Statements, training, resourcing and operational plans.

Our existing safety processes and systems have been developed with care over time and are continuously reviewed, including through recent consultations on the Fisheries Compliance Unit (FCU) Safety Framework with the FOVB and with input from both current and former Fisheries Officers. In addition, it is an inbuilt and foundational aspect of our safety framework that we direct officers to withdraw from situations that they believe are not safe.

We also do not agree that the department has not taken any action to improve the workplace (including safety) or respond to the concerns of Fisheries Officers and we have highlighted progress on numerous matters in our JCC and subsequent meetings, some of which are highlighted below.

1. A comprehensive and independent Fisheries Officer Safety Review - conducted in May 2022 with all recommendations accepted and actioned.
2. Approval to engage external legal providers to expedite prosecutions and results to help set deterrent.
3. A zero tolerance on matters connected to offences under Section 247 of the *Fisheries Management Act 1994* (threaten, intimidate, abuse, assault FO) with many prosecutions over recent years successfully completed, setting important deterrent to poor behaviour.
4. A 12 month trial of OC (capsicum) Spray on the NSW South Coast.
5. A detailed Risk Assessment for Commercial Fishing client interaction completed and implemented.
6. An administration Sanctions Policy for Commercial and Charter operators developed and implemented, to enable formal review and sanctions under various section of the Fisheries Management Act 1994 and its subordinate legislation.
7. The joint Strike Force Rubra – initiated with Police to target abalone IUU on the NSW South Coast with significant results and court matters on foot.
8. Establishment of a collaborative project with the Fisheries Research and Development Corporation and the Indigenous Land and Sea Corporation to establish new Aboriginal community owned and operated fishing businesses in NSW, to create a pathway for greater Aboriginal community participation in the commercial fishery – one of the new businesses being established is an Aboriginal cooperative on the south coast.
9. Working as part of whole of Government processes to assist with settlement of the Native Title claim on the south coast.
10. Approval by the Minister for Agriculture to draft a broader Fit and Proper Person regime for inclusion in the Fisheries Management (General) Regulations.

11. Roll out of the Axon Body Cam system to all Fisheries Officers which is a significant upgrade from the older and less reliable Reveal system. Body Cams are an important safety device for FOs in the field and serve as a significant deterrent to aggressive behaviour and a means to collect evidence.
12. Establishment of a data access arrangement with the Australian Maritime Safety Authority (AMSA) to access vessel information. A trial of this arrangement has recently been conducted and was very effective. Wider ranging arrangements will be implemented over the coming months.

Vacancies

We understand the PSA concern about vacancies, raised separately to the decision to instigate a workban. It is not uncommon for the FCU, or other parts of the Department, to carry vacancies at any given time due to staff transitions such as leave or departures. I understand that when a leadership role is vacant, it is normal practice for the business to provide a development opportunity for members of the team. The Department has attempted to fill a number of these roles in recent times, however Fisheries Officers with relevant experience have not sought these promotional or development opportunities and some of the roles exist in known hard to fill locations. There are also benefits associated with conducting focused recruitment activities that seek to fill multiple roles through a set process. The recruitment approval process is being progressed and relevant roles will be advertised as part of the normal course of business.

With respect to the rollout of the VMS project, which spans fisheries data collection, fisheries stock assessment, fisheries management and compliance objectives, the responsibility for determining how and where such projects are managed lies with senior leaders and the Fisheries Executive. These leaders are fully committed to ensuring the effective implementation of all projects while maintaining alignment with operational priorities and will continue to engage with all parts of the Fisheries business including the Fisheries Compliance Unit.

Contrary to the statement in your recent correspondence, I do support a strategic approach to review and modernise aspects of fisheries officer powers in the *Fisheries Management Act 1994*, to address modern fisheries management and compliance needs. Where high level covert surveillance powers are required to monitor and intercept organised crime we will continue to work with NSW Police.

In light of the above, I respectfully request that the work bans imposed by the PSA on its Fisheries Officer members be lifted by 5 p.m. on Thursday, 19 September 2024.

The work bans have a significant impact on numerous operations of the department, and we need to consider contingencies, along with next steps through the NSW Industrial Relations Commission for resolution. However, I am hopeful that the above commitments should assure the FOVB/PSA that

the Department is taking these matters seriously and will work with Fisheries Officers to address the issues raised.

Sincerely

A handwritten signature in black ink, appearing to read 'Sean Sloan', written over a light grey rectangular background.

Sean Sloan

Deputy Secretary Fisheries and Forestry