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14 February 2025

Mr Sean Sloan
Deputy Director General
Fisheries and Game Licensing
NSW Department of Primary Industries – Fisheries NSW
Locked Bag 21
ORANGE NSW 2800

By email: ange.royal@regional.nsw.gov.au

Attention: Ange Royal – Manager Industrial Relations

Dear Mr Sloan,

The Public Service Association of NSW (PSA) is writing in reply to correspondence dated 5 December 2024 and 11 February 2025 regarding the outcome and Commissioner McDonald's recommendation from IRC Matter No 2024/00351638.

The PSA was tasked by the Industrial Relations Commission of New South Wales (IRC) with reviewing the current work bans once material had been provided by the Department of Primary Industries Fisheries (DPI Fisheries) in accordance with recommendations 1 and 2. The following response makes up part of those considerations consistent with recommendation 3.

PSA Response to the Departments response re Implementation of CERT Review Recommendations

Recommendation 1

The PSA seeks further explanation how Recommendation 1 has been implemented. The PSA can confirm that Fisheries Officers have no knowledge of Situational Incident Management (SIM) or the more detailed 5 step ESADA models being part of Fisheries Officer training. A search of the DPIRD intranet page for Fisheries Officers (Infosite) reveals no trace of the two dynamic risk management models recommended by the CERT Review. The Department has created a "Take 5" program however this program serves a different purpose to the dynamic risk management models. The concept surrounding "Take 5" is a well know workplace risk management procedure that has been adopted by Fisheries Officers for over a decade.

Recommendation 2

The PSA looks forward to this recommendation being implemented by 31st March 2025.

Recommendation 3

The PSA looks forward to this recommendation being implemented by the 31st March and 30th June 2025.

Recommendation 4

The PSA does not agree that Recommendation 4 has been partially implemented. The recommendation was to update the current job task analysis. An update in 2018, four years prior to the CERT Review, does not mean that the recommendation has been partially implemented. The PSA looks forward to the review being actioned by 31 March.

Recommendation 5

The PSA does not agree that Recommendation 5 has been partially implemented. The draft risk assessment created in September 2022 regarding lone officer patrols was not sanctioned by either the Fisheries WHS committee or the FOVB. The draft risk assessment effectively permitted Fisheries Officers to work alone in circumstances that the FOVB and PSA would not consider safe. The "push" from the Department to allow lone officer patrols in most circumstances ultimately resulted in industrial action from the PSA. It's the PSA's view that the recommendation has not been implemented however the PSA looks forward to this recommendation being implemented by 31 March 2025.

Recommendation 6

It's disappointing that, despite the CERT reviews recommendation that NSW Fisheries Officers powers should be improved, the Department feels the need to conduct another review. How many reviews are needed?

The Department needs to openly agree with the CERT Review recommendations and make a commitment to improve Fisheries Officer powers. There is optimism amongst FO ranks that the Department and Government will follow through with their goal to use this review to finally implement much needed improvements to the Fisheries Management Act powers as well as the ancillary Surveillance and Weapons Prohibition Regulations.

Recommendation 7

The PSA's view on this recommendation is the same as recommendation 6.

Recommendation 8

The PSA does not agree that Recommendation 8 has been implemented. Fisheries Officers currently need a reason to believe that there is something in a vehicle connected with a fisheries offence before an officer can search the NSW transport database. The recommendation was that Fisheries Officer powers be improved so that they can access the transport database for the purpose of conducting their work.

Why would the CERT Review recommend access to data that as the Department says "has been in plays for 15 years"? The Department needs to openly agree with the CERT review recommendation and make a commitment to improve Fisheries Officer powers.

Recommendation 9

The PSA does not agree that Recommendation 9 has been partially implemented. The purchase of new BWV for Fisheries Officers is not implementing the recommendation that

the legislation be amended authorising Fisheries Officers to use BWV during their work. During the rollout of the new BWV cameras, it appears that the Department has not considered the implications under the Workplace Surveillance Act 2005. The Department has not consulted with the PSA on this issue and there is no evidence that the Department has initiated conversations or applications for exemptions with the relevant Ministers with portfolio responsibilities.

Recommendation 10

It is the PSA's position that Recommendation 10 has been partially implemented. Whilst the 'siloing' of Fisheries units is still an issue, the Department has slowly begun to install some windows and doors between these teams to open communications and avoid a repeat of recent rollouts where the FCU were locked out of conversation. The exclusion of Fisheries Compliance from the rollout of VMS is a current and significant example of how there is a long way to go to address this issue.

Recommendation 11

The PSA seeks further explanation on how Recommendation 11 has been implemented. The PSA is not aware of the review of field communications. Field communications are much more than just a lone worker system and if the only recommendation from the review was that FCU switch to the current lone worker system, that is very concerning. The current lone worker system is not fit for purpose, nor as good as the previous system and falls well short of being adequate for Fisheries Officers.

Recommendation 12

The PSA seeks further explanation on how Recommendation 12 has been implemented. Has the Department developed a "comprehensive integrated officer safety training framework" as recommended by the CERT review? The Department has provided advice that its training is now provided by CERT but there is no evidence that this recommendation has been implemented.

PSA Response to Obtaining OC Spray

It is difficult for the PSA/FOVB to provide commentary on this matter because there is no written evidence of DPI Fisheries administering any interactions with the NSW Police Minister nor the NSW Police Commissioner, seeking exemptions subject to the Weapons Prohibition Act 2007 and Regulations.

Evidence provided before the NSW IRC by the previous Director Fisheries Compliance, seemed to be at odds with the information provided in unrecorded discussions as well as the respective JCCs. Therefore, it is not transparent what DPI Fisheries representatives have done, or not done, with respect to seeking exemptions with the NSW Commissioner of Police or the NSW Police Minister.

DPI Fisheries' support should be more than thoughts and prayers and the PSA would be much more accepting of a process whereby there was a documented process for all to see if the agency has been as supportive as it claims.

PSA Response to VMS Rollout Commercial Fishing Fleet

The PSA's interest in VMS on NSW commercial fishing vessels centres around the safety of Fisheries Officers while they are performing their important compliance work. The importance of VMS as a compliance tool is acknowledged by every Fisheries agency in Australia, except it seems by NSW DPIRD, and this is evident in your response where fisheries compliance is listed last in the list of reasons for introducing VMS. To demonstrate how other States publicise the importance of VMS as a compliance tool, the VMS page on West Australia's DPIRD website opens with the sentence "One of the most important regulatory compliance tools for fisheries management worldwide is a Vessel Monitoring System (VMS)." The VMS webpages for all the other Australian Fisheries Agencies, except NSW, places compliance at the top of the list for the justification of VMS.

The PSA understands that the VMS rollout only includes VMS for specific offshore commercial fisheries and, with the exception of ocean trawl, the other fisheries that were subject to work bans will not require VMS. This VMS rollout is not acceptable to the PSA and the PSA is having difficulties in providing a recommendation to our members to lift the workbans for this point alone. It's disappointing that NSW DPIRD can't see the benefit VMS holds as a compliance tool, particularly regarding officer safety. If all the other Fisheries agencies are correct and VMS is the most important compliance tool for fisheries management worldwide, then NSW DPIRD should be using this opportunity to rollout VMS across most, if not all commercial fishing methods.

Fisheries Officers within the other Australian jurisdictions use real time VMS data to risk assess and plan their work. Being able to risk assess and plan tasks such as boarding a commercial fishing vessel at night, means that Fisheries Officers will know the identity of the vessel they are about to board. NSW Fisheries Officers are currently flying blind when it comes to the inspection of commercial fishers on our waterways and real time VMS data would remove that blindfold.

Real time VMS data means that Fisheries Officers do not have to traverse large expanses of land and water, at night and often in extreme conditions, searching for commercial fishers. Real time VMS data will enable Fisheries Officers to quickly locate and travel to commercial fishers by the safest and most direct route. Real-time VMS data creates significant advantages for Fisheries Officers regarding both efficiency and safety.

It's the PSA's position that the VMS proposal does not go far enough and that all NSW commercial fishers should be required to use VMS. It is not acceptable to the PSA that fisheries such as Abalone, meshing, yabby, hand gathering, estuary trapping and Eel are not included in the proposed VMS rollout. It's the PSA's position that the VMS system must be a real time system using Satellite technology as a cheaper mobile network system will not provide Fisheries Officers with the real time information they need to perform their job in a safe manner

There is overwhelming evidence from fisheries around the world that VMS is a powerful deterrent against fisheries offending and lifts voluntary compliance. Increased compliance amongst fishers has many advantages but the reduced risk to Fisheries Officers is the main benefit. The safety of our Fisheries Officers should be the Department's main priority.

That the Fisheries Compliance Unit is not co-ordinating or at least involved in the development of the VMS rollout is not acceptable to the PSA and is not consistent with recommendation 10 from the CERT review

As for lifting of the workbans the PSA will provide the information regarding this correspondence as well as DPI Fisheries response from 5 December to the FOVB

membership as part of a Special General Meeting that will be held in accordance with PSA rules.

The PSA will advise DPI Fisheries of the outcome of that meeting post haste.

If you have any enquiries in relation to the above correspondence or wish to meet and discuss, I can be contacted on 0407 494 770 or via return email showes@psa.asn.au.

Yours sincerely,

Shane Howes
for Stewart Little
General Secretary