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Summary of DPIRD progress on safety improvements for Fisheries Officers

Dear Mr Howes,

On 4 November 2024, Commissioner McDonald recommended that the Department should, as a matter of priority, take all steps within its control to implement the recommendations of the CERT Review dated April 2022. The Department has worked closely with the PSA and FOVB to make significant progress to implement these recommendations.

Commissioner McDonald also recommended the Department provide to the PSA a report that sets out each of the steps it has taken and will, or will not, take to:

- implement the recommendations of the CERT Review dated April 2022.
- obtain approval for FOs to carry OC Spray
- obtain approval for the rollout of VMS on the commercial fishing fleet.

Attached is a report which includes details provided to me on these matters, including the expected timeframes for any future steps to be taken. The Department welcomes the opportunity to meet with you to discuss this report, with a view to lifting the work bans, as also recommended by Commissioner McDonald.

Sincerely



Peter Turnell

Acting Executive Director Fisheries
Fisheries & Forestry

Summary of DPIRD progress on safety improvements for Fisheries Officers

The Department is committed to the ongoing safety for Fisheries Officers. As outlined in a letter to Shane Howes, Industrial Officer, PSA of 18 September 2024, the Department, in collaboration with the PSA, FOVB, and Joint Consultative Committee has taken several actions to improve the workplace (including safety) and respond to the concerns of Fisheries Officers. Examples are listed below, with detail provided in response to the recommendations of Commissioner McDonald in the following pages.

- Approval to engage external legal providers to expedite prosecutions and results to help foster voluntary compliance and establish deterrent.
- A zero tolerance on matters connected to offences under Section 247 of the Fisheries Management Act 1994 (threaten, intimidate, abuse, assault FO) with many matters involving these charges over recent years successfully prosecuted, setting important deterrent to poor behaviour.
- A detailed Risk Assessment for Commercial Fishing client interaction completed and implemented.
- An administration Sanctions Policy for Commercial and Charter operators developed and implemented, to enable formal review and sanctions under various sections of the Fisheries Management Act 1994 and its subordinate legislation.
- 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, led by Police.
- 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.
- Working as part of whole of Government processes to assist with settlement of the Native Title claim on the south coast.
- Drafting of a regulation to introduce a Fit and Proper Person regime in the Fisheries Management (General) Regulations.

The Department has commissioned an independent expert review of NSW Fisheries Officer powers to make recommendations on arrangements to maximises voluntary compliance and provide effective deterrence (Terms of Reference attached). The independent reviewers will engage with the Fisheries Compliance Unit and the PSA as part of its deliberations. A report on this review is expected in March 2025. This report will be used to inform and support proposing any legislative changes.

a) Progress to implement the CERT Review

In 2022, the Department engaged an external consultant, CERT Group Pty Ltd, to undertake a review of existing policy, procedures and training programs to with a focus on Fisheries Officer safety (CERT Review). This was in response to concerns raised by the Public Service Association of NSW (PSA) and Fisheries Officer Vocational Branch (FOVB) relating to the increasing incidence of various kinds of aggression being experienced by Fisheries Officers at that time.

The CERT Review sought to ensure all known risks are adequately addressed and to provide Fisheries Officers with a safe place of work. The final report (*CERT - NSW Fisheries Compliance Independent Safety Review - April 2022*) was provided to the Department in April 2022.

The Department supports all 12 recommendations and has worked collaboratively with the PSA and FOVB to implement them. Progress against the 12 recommendations is provided in the table below. Of the 12 recommendations, the Departments assessment is that seven are implemented, one is partially implemented, two are in progress, and two are not yet implemented. The Department's prosed next steps are listed below.

Recommendation	Status	Next steps
1. The Situational Incident Management (SIM) dynamic risk management model as a minimum should be incorporated in officer safety training for fisheries officers in their initial training and this should be reinforced throughout their career as part of regular in-service training, using real or potential scenarios to develop critical decision-making skills for dynamic risk management. The more detailed 5 step E S A D A dynamic risk management option should be considered for use as part of planning for specialist investigation group operational activities.	Implemented The SIM model is part of all Fisheries Officers training. The Department has also implemented the <i>Take 5 program</i> as a way of recording evidence of dynamic risk assessments. Details of the Take 5 program are available on the Department Intranet site.	Ongoing implementation and continuous improvement.
2. The current SWMS for Dealing with Dangerous Clients – Safely Measuring Catch would be improved by being broken into the following separate SWMS: <ul style="list-style-type: none"> • Conducting inspections • Operations in remote campsites • Measuring fish (the risks associated with fish are standard to all fish inspections, and not related to the risk of assault from a client, or to dealing with dangerous clients) • Operations in identified high risk areas (e.g.: power stations). • Reporting of incidents and dangerous clients/ high risk offenders (these instructions would appear to be more appropriate in the General Work Instructions – the procedure of reporting incidents isn't a risk). 	In progress In 2022, a specific Risk Assessment Workshop for Fisheries Officers was held at Port Macquarie and a new Risk Assessment titled " <i>Fisheries compliance operations - Inspections of fishing industry participants who pose a threat or may pose a threat to the safety of Fisheries Officers</i> " was released in April 2023.	Separate and/or new Safe Work Method Statements will be completed following implementation of recommendation 3 (see below) High-risk activities prioritised through a formal risk assessment process. To be completed by 31 March 2025.
3. Review all SWMS which are broad in their scope and break these down into more discreet job tasks. SWMS content should focus on safety controls to	In progress The Fisheries Compliance branch has commenced discussions with the Health and	A full review of all Safe Work Method Statements (SWMS) has commenced. High-risk activities

Recommendation	Status	Next steps
manage hazards with each procedural step of a discreet job task. Some of the guidance in some SWMS is better suited to inclusion in the relevant section of the General Work.	Wellbeing Team to scope out a full review of Safe Work Method Statements and resourcing, roles and responsibilities.	will be prioritised and identified through a formal risk assessment process The completion of the high-risk activities and their associated WHS documentation is planned to be completed by 31 March 2025. The remainder will be completed by 30 June 2025. The above process will inform the implementation of recommendation 2 and 5.
4. Update the current job task analysis to include cognitive, psychosocial, emotional demands and ensure that policies and procedures associated with managing the risk of assault include the psychosocial harm from all types of challenging behaviour on the continuum leading up to physical assault.	Partially Implemented The Department, in conjunction with a WHS consultant, created a Psychological Demands and a Functional Demands Job Task Analyses in 2018.	A review of the Job Task Analyses will be completed by 31 March 2025. The Fisheries Compliance WHS Committee will conduct an initial review. This will occur on 11 December 2024 at the next meeting.
5. Implement a risk-based planning approach to working alone. All activities should require a minimum of two officers unless a risk assessment can satisfy that the planned activity is low risk and can be conducted safely by one officer.	Partially Implemented A draft risk assessment regarding lone officer patrols was conducted in September 2022. Finalisation of this document will occur as a part of the full SWMS review process, during which risk assessments will be conducted. As a part of ongoing continuous improvement, the Department recently completed a camping risk assessment that addresses lone camping in remote locations following an incident – the document is being finalised and will be released for consultation in the near future.	Finalisation of the current draft risk assessment will be completed as part of recommendation 3 and completed by 31 March 2025. Updated policy around Fisheries Officers working alone will be developed by 31 March 2025.
6. Align vehicle stop powers with those of other states by including a power to stop and examine vehicles for the purpose of the administration or enforcement of the Fisheries Act.	Not yet implemented Work has been undertaken to develop suitable legislative amendment proposals.	The Department has commissioned an independent review of NSW Fisheries Officer powers. A report is expected in March 2025. The report will be used to guide development of appropriate legislative reform proposals.
7. The Act should be amended to (1) include a requirement for a person required to provide their name and address to produce verification of personal details where the officer believes on reasonable grounds the details are false, and (2) create an offence to supply false or misleading details or information.	Not yet implemented Work has been undertaken to develop suitable legislative amendment proposals.	The Department has commissioned an independent review of NSW Fisheries Officer powers. A report is expected in March 2025. The report will be used to guide development of appropriate legislative reform proposals.
8. Access to vehicle registration information should be available for the purpose of the administration and enforcement of the Fisheries Management Act, so that officers can obtain information on the	Implemented The Fisheries Compliance branch has access to Drives 24 through Transport NSW, and this access has been in play for at least 15	Periodic review and ongoing continuous improvement

Recommendation	Status	Next steps
ownership of vehicles they observe, as part of pre-interaction risk assessment.	<p>years now and continues. The Unit currently has 12 authorised users.</p> <p>The Department notes that changes to privacy legislation in other States has made requests for vehicle from agencies in those other States difficult, for example in Victoria and Queensland.</p>	
9. Seek an amendment to the Surveillance Devices Regulations 2014 to (1) add NSW DPI Fisheries Compliance as a law enforcement agency and (2) add a regulation authorising the use of body worn video cameras by Fisheries Officers.	<p>Partially implemented</p> <ol style="list-style-type: none"> 1) Work undertaken to develop legislative amendments to add NSW DPI Fisheries Compliance as a law enforcement agency was not supported by NSW Police. 2) Fisheries Officers currently use Body-Worn Video cameras. A new brand and model of camera, with a modernised support platform is currently being implemented for all officers across the State, This is expected to be complete by 14 December 2024. 	The Department has commissioned an independent review of NSW Fisheries Officer powers. A report is expected in March 2025. The report will be used to guide development of appropriate legislative reform proposals.
10. Improve fisheries compliance input into fisheries management processes and decisions, and into fisheries legislation to ensure rules are enforceable and officers Fisheries Compliance has the appropriate legislative tools to achieve fisheries management goals.	<p>Implemented</p> <p>The Fisheries Compliance branch has input into fisheries management on an ongoing basis, through having a review and input role on proposed changes, as well as membership on a number of departmental teams for legislative change, commercial fisheries, recreational fisheries and aquaculture.</p>	Ongoing collaboration. Periodic review and ongoing continuous improvement.
11. <i>[With regard to field communications]</i> Contract a subject matter expert who can review the Fisheries Compliance work environment, look at what the organisation needs across all coastal and inland districts and then advise on the available options to best meet those needs. The WHS Committee should develop the list of requirements for a system.	<p>Implemented</p> <p>A review of field communications was undertaken, and several changes have been initiated as a result, including updates to the Log In Log Out (LILO) system to be administered by Well Done International.</p>	Periodic review and ongoing continuous improvement.
12. Develop a comprehensive integrated officer safety training framework with the initial training and refresher training integrating all aspects of the framework together in practical scenarios so that skills are learned and practiced as they will be applied.	<p>Implemented</p> <p>CERT Group provide Tactical Communications, Baton/Handcuff and Defensive Tactics Training to Fisheries Compliance Officers including job specific scenarios.</p> <p>This training is conducted for all Fisheries Officers with refresher courses conducted every two years. A full report is provided by CERT at the completion of each training conducted.</p>	Periodic review and ongoing implementation and continuous improvement.

b) Progress to obtain approval for FOs to carry OC Spray

In 2021/2022, Department senior officials worked with Police to initiative a trial of Oleoresin Capsicum (OC) Spray. The trial was supported by NSW Police at the time and was conducted successfully on the NSW South Coast with no reportable negative incidents or interactions. A subsequent review and independent report was conducted validating that the trial had been successful from an operational perspective.

Based on the evaluation of the trial, the Department made various approaches and sought approval from NSW Police for Fisheries Officers to possess and use OC Spray on a permanent basis. This proposal was ultimately not supported by NSW Police.

The Department has commissioned an independent review of NSW Fisheries Officer powers to make recommendations on arrangements to maximises voluntary compliance and provide effective deterrence. A report is expected in March 2025. This report will be used to inform and support proposing any legislative changes, for Ministerial consideration.

c) Progress to obtain approval for the rollout of VMS on the commercial fishing fleet

A trial of VMS units on NSW commercial fishing vessels has been running since June 2023 in NSW. The trial is informing the costs and benefits of the implementation of VMS in NSW commercial fisheries. Further, it is providing valuable information on the types of VMS units that are suitable for use on NSW commercial fishing vessels.

The Department is at the forefront of trialling the latest in VMS technology. Specifically, with the voluntary participation of NSW commercial fishers, the Department was the first Australian fisheries jurisdiction to trial solar powered VMS units from a New Zealand manufacturer. Furthermore, the Department is in the process of trialling the efficacy of two new solar powered units from the same manufacturer, including their suitability on smaller vessels.

The Commercial Fishing NSW Advisory Council (CommFish NSW) and NSW Wild Harvest Fishers Incorporated (NSW WHF) were updated on the current VMS proposal in October 2024, with CommFish NSW supportive of the introduction of VMS in fisheries where the technology is applicable to support effective data collection, to assist with validating research and catch return outcomes and to assist with efficient compliance monitoring activities.

Consultation commenced in November 2024 for a period of 4 weeks with these two groups and all relevant NSW commercial fishers on the proposal to mandate VMS in offshore NSW commercial fisheries from 1 July 2026. Implementation of VMS is proposed for NSW commercial fishers that operate in the Southern Fish Trawl, Lobster, Ocean Trap and Line, Ocean Trawl and Ocean Hauling – Purse Seine fisheries. Implementation of VMS in these offshore fisheries will provide for improved information for fish stock assessments, total allowable catch and effort determinations, commercial fisheries data validation and decision making and facilitate improved efficiencies in deployment of compliance monitoring activities.