



Department of Primary Industries

OUT16/21373

Mr Melven Brown
9 Narelle Crescent
WOONOONA NSW 2517

Dear Melven

Response to Official Complaint

I am writing in reply to your official complaint dated 14 March 2016 to Mr Peter Gallagher, Program Leader Marine Operations, regarding a statement in the 'Pre-identified sites report' released as part of community engagement on the Hawkesbury Shelf marine bioregion assessment. The statement relates to the background to the establishment of the North Harbour Aquatic Reserve (reserve) and the justification for excluding spearfishing.

I would like to apologise for the delay in responding to your initial correspondence. I am advised that Mr Gallagher has also extended you an apology and has since kept you abreast of progress during the investigation of your complaint. I would also like to thank you for your assistance in providing additional background information from your personal archives to assist with the investigation.

Following a review of the available file records, it would appear that the statement in the 'Pre-identified sites report' that:

'the rationale for excluding spearfishing (while allowing line fishing) was based on research from the U.S.A. at the time of declaration, which indicated that this fishing method makes fish less approachable by passive divers wanting to photograph or study them (DPI internal, 1979)'

is factually incorrect for several reasons.

Firstly, the statement appears to have its original source in a letter dated 10 November 1982 (9 months after declaration of the reserve) from the Department to a member of the public who had queried why spearfishing had been prohibited in the Reserve while line fishing could continue. An extract from the Department's response follows:

"However, research in the U.S.A. has shown that, apart from the killing and removal of fish from the area (which, as you point out, occurs whether they are taken by spear, line, net or any other method), spearfishing, as opposed to most other common methods of fishing, scares fish to the extent that they are

no longer readily approachable by divers wanting to photograph or study them. It is largely for the benefit of such non-spearfishing recreational divers that reserves such as that in North Harbour have been declared. The protection in an area of more sedentary species of fish often sought by spearfishermen also provides a source or "seeding area" for fish which move to, and can be taken in, nearby areas."

This extract was subsequently reproduced in an internal report titled 'A Review of Marine and Estuarine Protected Areas in NSW, with Emphasis on Research and Monitoring as a Basis for their Scientific Management' dated May 1997 by Dr D Pollard. This unpublished report appears to be the source of the reference in the 'Pre-identified sites report' and was incorrectly referenced as '(DPI internal 1979)' instead of '(DPI internal 1997)'. Accordingly, I have requested that the statement in the 'Pre-identified sites report' be removed.

Secondly, the use of the term 'research' in the correspondence outlined above, and the term 'studies' used in correspondence dated 29 October 1985 from the Department to Mr George Davies, Federal Secretary of the Australian Underwater Federation (AUF) also appear to be incorrect.

A file note from 10 March 1986 indicates that the 'research' and 'studies' referred to in the aforementioned correspondence relate to an article from the March 1973 edition of the American publication Skin Diver Magazine by Environment Editor, Mr Bill Barada. The Barada article would have been more appropriately referred to as an 'editorial' or 'article', and I note that it was referred to as an 'article' in subsequent correspondence dated 4 April 1986 from the Department to the AUF.

The AUF noted in a letter received by the Department on 28 April 1986 that while an apology had been provided to Mr Davies in respect of some sections of the Department's correspondence of 29 October 1985, a copy of the Barada article had not been provided. I understand that a copy of the article was subsequently provided to Mr Davies for his information in 1986, and that more recently, Mr Gallagher has retrieved a copy from the archives and provided a facsimile for your records.

I acknowledge that the spearfishing rules applied at the reserve appear to have been based on an opinion at the time, rather than research or dedicated study, that spearfishing makes fish less approachable by passive divers wanting to photograph or study them. I also concede that these management rules were prejudicial against spearfishing and that the justification for the rules does not appear to have been transparently communicated during the planning and establishment of the reserve. Instead, they were first publicly communicated approximately 9 months later. I would like to apologise on behalf of the Department for this situation.

I do note however, that despite a rationale not being stated in the lead up to the establishment of the Reserve, consultation did occur with the Recreational Fishing Advisory Council on the proposed management rules and that they were supported by the AUF at the time, albeit with some reservations.

As you are aware, the Hawkesbury Shelf marine bioregion assessment is currently underway. The objective of the assessment is to enhance marine biodiversity in the bioregion while achieving balanced community outcomes, including opportunities for a wide range of recreational and commercial uses. The Government has identified 15

sites for investigation during the assessment, including North Harbour Aquatic Reserve. There will be no changes to current management arrangements until after the recommendations of the assessment have been considered later this year. In the event that there are any proposals to change management arrangements in aquatic reserves, these changes would be subject to additional consultation.

I would like to thank you for raising this complaint, and hope that the subsequent investigation and associated apology can form the basis for an improved understanding and working relationship between the spearfishing community and the Department going forward.

I have attached a copy of the investigation report for your information and records. I would also appreciate it if you could convey a copy of this message and correspondence to Mr Davies and the current executive of the AUF and Underwater Skindivers and Fisherman's Association.

Should you have any further queries on this matter or would like copies of any of the material referred to in this correspondence or the attached report, I have arranged for Mr Gallagher (Ph: 4916 3875) to be available to assist.

Yours sincerely



Dr Geoff Allan
Deputy Director General DPI Fisheries

Date: 15 June 2016

Encl: