



P.O. Box 630
NARRABEEN
NSW 2101

25th September, 2003

The Honourable Ian MacDonald, MLA
Minister for Agriculture and Fisheries
Level 30 Governor Macquarie Tower
1 Farrer Place
Sydney, NSW, 2000

Dear Minister,

We are also very concerned about the lack of action taken by NSW Fisheries in the prevention of an activity whose effects are clearly in contravention of the Fisheries Management Act of 1994. This pertains to Section 220ZC of the Act, and the contravention is the damage done by the eco-dive industry to the 10 declared Critical Habitat Sites along the coast of NSW.

We have always had these concerns, and they have been stated in our recent Grey Nurse Shark submission. To add further emphasis, these concerns have been confirmed in an article in the spring edition of Ripples, the newsletter of the MCCN. This is a paper by Leon Zann, Professor of Environmental Management, Southern Cross University, called "Cape Byron Marine Park: a special challenge for management". Commenting on the Environmental Status of the area, Professor Zann says:

"There appears to be few major environmental issues in the marine section of the park. Water quality is excellent because of the low coastal population, absence of large industry and very strong current (the EAC). Julian rocks has been partially protected as an Aquatic Reserve, but there is some diver damage as it is the focus of a major dive industry".

Later in the same article Professor Zann states "The 50,000 annual scuba divers place great pressure on tiny Julian Rocks".

Section 220ZC of the Fisheries Management Act (1994) states that “A person must not, by an act or omission, do anything that causes damage to any critical habitat. Maximum penalty: 2,000 penalty units or imprisonment for 2 years or both”.

Professor Zann, observed activity and plain common sense plainly show that there is damage to this critical habit.

In view of these recent developments, we have the following issues and questions that require a credible and appropriate response from NSW Fisheries.

1. Surely the eco-dive industry must be of concern to NSW Fisheries. If so, why is nothing apparently being done? If not, what scientific evidence has NSW Fisheries got to disprove the plainly obvious? NSW Fisheries cannot have it both ways without being guilty of gross hypocrisy and/or condoning the flagrant breaking of the law when it suits them.
2. Further, if one critical habitat site is put under great pressure with the large number of divers and damage is being done to that critical habitat site which is in contravention of Section 220ZC of the Fisheries Management Act (1994), one has also to be concerned about the pressure placed on other critical habitat sites.

What about the damage done to those critical habitats? What about the behavioural changes that must come about in the grey nurse shark populations as a result of large numbers of divers crowding their habitats?

Can NSW Fisheries quantify the number of divers that visit each of the 10 critical habitat sites annually?

Have NSW Fisheries determined the extent of the damage so caused?

Do NSW Fisheries understand the effects that this activity will have on the grey nurse shark?

3. If NSW Fisheries are aware of any facts pertinent to these matters why is the information not released to the public?
4. If NSW Fisheries are unable to furnish details, what plans have been drawn up to monitor and research the numbers of divers and the effects and damage that must surely result?
5. If preventing damage to critical habitat sites is considered a policing problem, then the obvious solution is to prohibit diving in all declared critical habitat sites. In other words have “no dive” zones just like there are “no take” zones.

Or do NSW Fisheries have a “hidden agenda” and plan to willingly continue to ignore a situation that plainly contravenes their own Fisheries Management Act?

In other words, is policing and enforcement governed by the relevant Act or at the whim and fancy of NSW Fisheries officers?

These issues will not go away. We much prefer to receive cogent and plausible written responses to the questions posed in this letter to enable us to all work together towards a sustainable marine environment for future generations.

Yours sincerely

Phillip Ingram
President
Anglers Action Group (Sydney Northside) Inc.