

The Recreational Fishing Alliance of NSW

Promoting Sustainable Fishing



22 March 2020

The Hon. Adam Marshall MP
Minister for Agriculture and Western New South Wales
GPO Box 5341
SYDNEY NSW 2001

Dear Minister,

The Recreational Fishing Alliance of New South Wales (RFA) requests an independent review of the use of research data and intellectual property generated or collected in projects funded by the New South Wales Recreational Fishing Trusts.

The RFA shares the concerns of many in the recreational fishing community about lack of transparency in the way research and data is used and shared, and it seems that some recent examples may be inconsistent with the purposes of the Trust to “improve recreational fishing in NSW”.

The RFA believes that many Trust-funded research projects do not contain adequate safeguards that include clear explanations on how Trust-funded research will be used in the future. In a typical “Funding Deed For Small Projects” (i.e. the signed agreement between applicants and the Government), Section 6 (Intellectual Property), 6.2 states “You grant the Department perpetual, transferrable, royalty free licence to use Project Material”. This clause provides no external oversight of how data/research will be used, and grants unrestricted, perpetual use of data without the need for additional consultation with recreational anglers.

This was recently reinforced at Budget Estimates hearing on 2 March, 2020, where The Hon Mark Banasiak from the Shooters, Fishers and Farmers and Chair of Portfolio Committee No. 4 Industry, teased out this response from DPI Research Director, Natalie Moltschaniwskyj:

The CHAIR: That is good to hear. Sticking with research and data, when research is funded by the trust funds, whether it is recreational or commercial, who owns the data?

Dr MOLTSCHANIWSKYJ: The data for all research that is undertaken by DPI staff is owned by the Government. It owns the data and the data is available for use.

The CHAIR: Even if it is funded by the recreational fishing trust or the commercial fishing trust?

Dr MOLTSCHANIWSKYJ: That is correct, unless there is some clause in the contract that restricts how the intellectual property is being used, and data is IP. There may be some very specific clauses that relate to certain projects that say the State has got sensitivities and the IP has to be negotiated in terms of access.

The CHAIR: In terms of decision-making based on the data, do the people who fund their data—the trust—get to see the data before decisions are made, or do they find out like everyone else?

Dr MOLTSCHANIWSKYJ: They have right of access to see the data in the reports at any point in time.

In 2018 the RFA asked both separately and through the Trust Fund and Advisory Council for the raw modelling data used in the Marine Estate Management Authority's Hawkesbury Shelf Marine Bioregion Assessment (some of which was Trust funded) only to be told to submit a Freedom of Information request, so is Dr Moltschaniwskyj's response—under oath in a Budget Estimates hearing—truthful?

The use of recreational data by external contractors to shape the spatial lockouts in the Hawkesbury Shelf Marine Bioregion Assessment is just one example of our concerns. In that case, Trust-funded recreational data was collected and paid for by recreational fishing licence fees, but the way it was used by DPI and shared with others was never publicly disclosed or even discussed. The data DPI provided was used without consulting recreational anglers. Not one recreational fisher was asked to validate this data, as far as we know.

Even more recently I am aware of a proposed Saltwater Trust Funded project submitted by external researchers that could have asked recreational fishers and DPI to provide tagging assistance/data, help complete recreational surveys and contribute citizen science components to help evaluate the efficiency of sanctuary zones in a Marine Park. Apparently, one of the aims of this project unbeknownst to many of the fishers who might have been contacted was to substantiate claims that sanctuary zones promote spillover of new recruits to adjacent fishing hotspots, and as such these locations should not be fished. This Trust-funded data collection was clearly not going to be used in the best interests of recreational fishers because there was no effort to engage or consult the recreational fishing community. Whilst this project application and the Trust Fund outcomes are confidential, as a previous Trust Fund member representing the RFA of NSW I was most concerned that an application had progressed to such a high level with DPI knowledge and no efforts had been made to consult.

Every project must be held to account over the purpose, quality, relevance, collection and use of data—including its future use. In the Hawkesbury Shelf Marine Bioregion Assessment, data was handed over to external contractors without consultation. This must never happen again or else the confidence of the recreational sector will be further eroded.

Recreational anglers should not be paying for research that will be improperly used, or used against the interests of anglers. Approval must be sought by DPI from the recreational fishing community before any Trust-funded data is handed over to researchers, consultants or contractors.

As far as the RFA is aware there are no documentation processes, roles and responsibilities, training requirements, data maintenance policies, etc., to deal with Trust-funded recreational fishing data. This needs to be immediately resolved.

The RFA asks you to consider the following;

1. The immediate review of all current projects to identify those that will result in recreational fishing data collection and how this data will be used.
2. The immediate establishment of a Data Review Committee from within the Trust Fund membership, as well as independent persons, that will deal with administrative safeguards, policies and procedures that help protect against improper outcomes. These safeguards will have to be also put out for public consultation.
3. Future use of data from every Trust-funded project must not occur without referring it back to the Trust for consideration and approval.
4. Data and IP ownership and sharing clauses in Trust deeds should be reviewed and updated immediately.

Data sharing should only be allowed where a strict purpose test is met, and where proper data-sharing principles have been applied. If there is a clear public benefit, data custodians must share data in a controlled and approved manner. Most importantly, data and IP should only be shared with the cognizance and approval of the recreational fishers that provided it.

Yours faithfully,



Stan Konstantaras
President
Recreational Fishing Alliance of NSW