21st October 2016.

Productivity Commission Inquiry (2016) into the Regulation of Australian Marine Fisheries and Aquaculture Sectors.

Further evidence from Australian Prawn Farmers Association (APFA).

Dear Commissioner

Thank you once again for the opportunity to present at the Brisbane hearing on October 12th.

I recall that when I was somewhat critical of the Draft Finding 8.2 I was advised that because of lack of examples of regulatory burden nationally the commission concluded that regulatory burden was not seen as a significant impediment.

8.2 The regulatory arrangements for aquaculture have not significantly changed since the commissions 2004 study and not seen as a significant impediment to the growth of the aquaculture industry in Australia…..

Below I have included 3 recent examples of how QLD government agencies work against industry expansion – they are real examples of how convoluted the process is for QLD. In one example the farm expansion was stopped by the commonwealth who can veto any decision that QLD might make in relation to aquaculture expansion or development.

It is not a simple case to start a new aquaculture farm or expand an existing one and it would be helpful if this PC review recognised and understood some of the complexities.

The Productivity Commission might suggest that this is just a QLD issue and industry needs to deal with the QLD government agencies separately to this process.

However state government agency terminology and language has quickly started to imply that aquaculture should have no environmental impact – none of us can truly say we have no environmental impact, so to expect that from one industry is unachievable and anti competitive.

While dealing with QLD Environment Heritage Protection (EHP) for any expansion or new development – a farm might spend years and lots of money complying with regulation requirements only to have at the last minute GBRMPA halt proceedings if they believe that the EPBC Act has been breached and there might be an impact on the reef. The same does not apply to a new development if it is a cane farm and these can be approved within 6 months even though it is well recognised and documented that they do contribute to the diffuse run off into the reef.

Government agencies and green groups all scamper to save the reef and cry that there is never enough funding to save it. As an industry looking at how to access funding for small assimilative capacity projects it appears that the funding is pre allocated before any announcement.

In fact accessing funding to help save the reef is extremely difficult to track down and apply – is it $1 billion or $2 billion, plus another $171 million…plus $45 million through a reef alliance project (reward for the sectors that contribute to the pollution and help subsidise them).

The cane farmer's web site advises that of the 1434 farms in QLD 145 have been certified under the BMP plans. Without being too derogatory to any particular industry it does show the anti competitive nature of the current practices and approvals- and governments state and federal seem to be holding one small industry to ransom through strict control.

As a small industry on the outside looking in – it is difficult to see how strict regulation can be justified for our industry when it's quite the opposite for others.

http://www.smh.com.au/federal-politics/federal-election-2016/election-2016-coalitions-1-billion-funding-promise-for-great-barrier-reef-20160612-gphd86.html

http://www.gizmodo.com.au/2016/05/171-million-to-save-the-great-barrier-reef-in-todays-budget/

http://www.qff.org.au/reef-gets-45-million-boost-through-qff-led-reef-alliance-project/

https://www.smartcane.com.au/home.aspx

It seems that if you are a mining company and want to dredge spoil into the reef this is considered an acceptable activity with Adani, Abbott Point facility expansion originally approved to dredge 1.1 million cubic metres of dredge spoil directly into the reef – some 40 kilometres from the Guthalungra prawn farm that took a15 year journey for approval – that is one generation.

http://www.abc.net.au/news/2015-12-22/massive-abbot-point-coal-port-expansion-gets-federal-approval/7047380

If the Commonwealth government is serious about supporting growth of aquaculture in Australia the three recommendations put forward to the Productivity Commission review by National Aquaculture Council are urgently required as well as collating recommendations from numerous other Federal inquiries and to start acting on them.

a) An Australian Aquaculture Policy and subsequent Act, to simplify regulation of aquaculture and promote aquaculture development.

b) Federal government policy to support aquaculture as a significant contributor to agriculture development, regional employment, and to food production, addressing the challenge of food security and the seafood trade imbalance.

c) Nationally harmonised framework for risk assessment, environmental approvals, and regulation of aquaculture.

EXAMPLE 1 - Cowley regional barramundi farm:
2009 – Sealord purchase King Reef Barramundi with an operating licence that does not match pond numbers, pond areas or volumes to what is actually onsite

2012 – Sealord begins a "Transitional Environmental Program" (TEP) to bring the farm back to compliance in regards to nutrient discharge levels and amend licence at the end of program

2015 – Sealord completes TEP after considerable cost:

Turning 2 production ponds into extra settlement
Constructing over 1km of wetlands
Shutting one release point and re-directing that water into the settlement of wetlands
Installing "V-Notch" weirs to measure volume discharge
Undertaking 5 rounds of macro-invertebrate samplings of reference and test site (@ $7K/time)
Re-writing "Receiving Environment Monitoring Program" at cost of consultant
Attempting to amend licence conditions (another $12K after consultant fees)
All of this work undertaken was included in the TEP which was signed off by the DEHP in 2012.

2016 – After 8 months (the application sitting in the wrong department for a month, numerous extensions granted by themselves, addressing the correspondence to a 77 year old bird-mitigation staff member that works 6hrs/week) the DEHP rejected every single aspect of the application. Sealord was successful in reducing nutrient loading by 80% over the TEP and asked for a slight increase to give some breathing space. Our licence for nitrogen for example is 0.8mg/L!! During the last rainfall event (and we are the wettest part of the country), the river tested 4X our discharge yet nothing happens to Cane or Banana farms (and we don't use any chemical). When this was raised the response was that the water flows that fast it has no impact!!!! Probably correct, it ends up on the reef!

Despite our water quality data showing no impact on the receiving environment <300m downstream the refusal was based on the capacity already being 100%. The query was made as to the capacity and DEHP said it was only an understanding, so again no science. DEHP did not take into consideration our Macro-invertebrate sampling which also showed no impact,

as it was not used to increase nutrient limits. Yet we still had to spend upwards of $30,000 to do it at their request.

There was no room for negotiation and they even refused to amend our licence to reflect the changes by shutting down a release point and re-directing water through the settlement system. You would think that is a good thing! The recommendation from the department was to withdrawal our application which was the best for the company???? The meeting was held on a Friday afternoon and the deadline for the application was the next Monday. DEHP have 8 months to make a decision and we get 1.2 working days? On top of this, not a single site visit to check on progress (not that I am complaining about that, but adds to the unprofessionalism)

Sealord has now made the decision to spend upwards of $300,000 to become a zero discharge farm by recycling all water and becoming not-answerable to DEHP. We are fortunate enough to have both the funds and land available to do this. But, what about the owner/operator that isn't as fortunate.

EXAMPLE 2 Mackay regional prawn farm:
1999 – The farm is issued a licence pre-EPBC act and GBRMPA to operate a 42ha prawn farm. The farm has only ever had 33ha and the converted 9ha into settlement system to remediate water.

2005 – The farm receives a letter from the Minister of Environment, in conjunction with GBRMPA, stating that the Federal Government deems that the State Government has jurisdiction to look after aquaculture licences, and that the farm can operate under the original licence as managed by the State.

2006 - The State Government introduced the concept of running farms on a load based system. This would not affect the farm licence and the farm was supportive of the change. It allowed the farm the same nutrient output, but the allowed nutrient output was contingent on number of ponds. 2007 – The farm started the process of expansion and went through the QLD State Development application process. There were no triggers in the application process to defer to GBRMPA or Federal Government for any further approvals. The development meant the same level of discharge but over a larger number of ponds. Hence the farm met the same nutrient allowance; however the farm was more efficient. There were Referral agencies to contact as part of the Development Approval. The farm contacted them all, shared all relevant information, and published a public notification. GBRMPA or any other Federal Agency was not on the list. GBRMPA did not contact the farm following the public notification.

2008 – It took more than 18 months to finalise the development application. In 2008, the farm also applied for an extension of the development but due to financial concerns the farm did not proceed.

2015 – The farm was still operating 33 ponds and received the relevant development approvals and extension. They started building ponds. They then received a letter from Federal Department of Environment stating that the farm was potentially in breach of the EPBC Act – Section 18, and there was a potential impact on a sensitive area.

The farm has undertaken impact monitoring studies since the start of their licence, which proves scientifically that there is no impact. The farm was asked to provide all archived documents within 2 weeks (which was challenging), only to find out that the relevant person at the department was on leave for an undefined period of time, yet demanded documents within a very short time frame.

2015 – The Mackay farm received their official approval and has expanded their operations.

EXAMPLE 3 – AUSTRALIAN CUCUMBERS, Moreton Bay QLD:
This person did not have a prepared dot point time line (in time for this response) but the proponent started six years ago with an application to use an existing oyster lease, which was already designated for aquaculture and change the species to sea cucumbers.

Six years later and having spent $400,000 he received a 3 page refusal letter from relevant authorities.

Two months ago the proponent applied to do the same farming in Tasmania and within 2 weeks received a draft permit to proceed.

This result is testament to the power of having an Aquaculture Act that simplifies processes and encourages business development – and would prove the merit of having a National Aquaculture Act that would stop this wasteful and mindless process of what aquaculture proponents in QLD have to go through just to farm an aquaculture species.

RECOMMENDATIONS FROM RECENT SENATE INQUIRIES:

The Scaling Up inquiry into opportunities for expanding aquaculture in Northern Australian (Joint select committee on Northern Australia) February 2016 report – recommendation number 4 – recommended that GBRMPA, in accordance with the planned actions outlined in its regulatory Plan 2015-2015 **revoke** this Act.

The Scaling Up inquiry into opportunities for expanding aquaculture in Northern Australian (Joint select committee on Northern Australia) February 2016 report provided numerous recommendations relative to aquaculture development and while relevant to Northern Australia development are relevant at a national level.

In particular **Recommendation 2** – in relation to review and expand science relating to environmental impact of aquaculture in areas adjacent to the GBR.

Recommendation 3 – that GBRMPA and QLD government develop special aquaculture zones.

Recommendation 4 – (mentioned above) that GBRMPA revoke the Great Barrier Reef Marine Park Aquaculture Regulation 2000.

Recommendation 5 – that the Department of the environment ensure the framework for developing offsetting in GBR is comprehensive, transparent and accessible for potential aquaculture investors.

I have consulted with industry members and would like to add further comments in relation to Draft Recommendation 9.1 for CoOL for seafood:

The rationale argued for mandatory country of origin labelling for seafood sold for immediate consumption would be to address potentially misleading country of origin information and/or for food safety reasons — to the extent consumers use the country of origin as an indicator of food safety. However, these concerns are dealt with under existing legislation.

> This is false. The concerns are not adequately dealt with under existing legislation. Indeed, the rationale for mandatory CoOL for seafood for immediate consumption is exactly the same as for seafood sold at a retail store and mandatory CoOL law applies to retail sale specifically because the concerns are NOT adequately dealt with under any other existing legislation. If this statement were true there would be no need for mandatory CoOL in retail either which may well be the opinion of the authors but this is clearly not supported by consumers or the Parliament.

Consumers are already protected from incorrect labelling of seafood under consumer protection legislation. For example, consumer protection legislation is in place to protect consumers from false or misleading information as to the origin of the seafood.

> If no labelling is required then no effective protection is provided by consumer protection legislation. In the case of Barramundi, labelling imported Asian Sea Bass as Barramundi without labelling its country of origin is in fact false and misleading because the vast majority of consumer believe "Barramundi" to be an Australian product, not an imported product. This is a clear case of failure of the existing consumer protections.

The starting presumption from proponents of mandatory labelling is that there is a preference for locally caught seafood. However, if this were the case, food outlets should have an incentive to provide information on product origin (so long as the cost of labelling does not exceed the potential for higher profits with higher priced local product).

> This is a manifestly false assumption. The higher profits come from buying inferior but cheaper imported product, not labelling its origin, allowing the consumer to assume it is Australian product and selling it at a premium price as if it were that Australian product. By misleading the consumer though omission of origin labelling they can make windfall profits at the expense of the consumer and Australian producers. There is no food outlet profit incentive to provide information on imported product origin, quite the reverse in fact.

There are also practical impediments to implementing country of origin labelling for ready-to-eat seafood. Food service businesses need to be able to change menus in response to quality, seasonality and availability of different seafood products and would need to identify

the proportion of local and imported content in seafood dishes offered every time menus change.

> Identification of origin of produce bought by food outlets is a simple matter. This is not an impediment. If they are changing the menu anyway then it is a simple matter to also change the Country of Origin if that is what has happened.

Also, the symbols and bar charts for country of origin labelling for packaged and fresh food that will become mandatory in 2018 could be difficult to replicate on menus and menu boards.

> The assumption that the same symbols and bar charts to be applied to fresh food must also be applied to menus is simply wrong. The call is to label origin of **seafood** in food outlets, not every ingredient or the weighted average of all ingredients in a dish. The symbols and bar charts therefore do not apply to menus. The assumption is wrong and therefore the conclusions reached in relying on if are also wrong.

Because of the practical difficulties, including the costs associated with menu changes and the possible impacts of mandatory labelling on product sourcing, the Australian and New Zealand Food Standards Code specifically exempts all food — not just seafood — for immediate consumption, sold in restaurants, takeaways, hotels, clubs, hospitals and canteens from country of origin labelling

> There are clear practical difficulties in applying mandatory labelling to all of the ingredients used in menu items and that is the reason for the current exemption. The same practical difficulties do not apply if the exemption is removed for seafood only. The argument is flawed and therefore the conclusions reached in relying on if are also flawed.

Yours sincerely

Helen Jenkins
Executive Officer