



29 June 2004

Janice Paull
Acting Secretary
Senate Standing Committee for the Scrutiny of Bills
Suite SG-49
Parliament House
CANBERRA ACT 2600

Dear Ms Paull

I refer to your letter of 8 April 2004 to Wendy Craik, Chair, Australian Fisheries Management Authority (AFMA), in which you invite AFMA to make a submission in relation to the Senate Standing Committee's inquiry into the Government's response to the Committee's *Fourth Report of 2000: Entry and Search Provisions in Commonwealth Legislation*. Ms Craik thanks you for your correspondence and has asked me to reply on her behalf.

AFMA supports the Government's responses to recommendations made in the *Fourth Report of 2000: Entry and Search Provisions in Commonwealth legislation*.

It should be noted by the Senate Standing Committee that AFMA administers the Commonwealth *Fisheries Management Act 1991*, an Act that includes powers of entry, search and seizure. Although this agency understands that the inquiry is primarily concerned with entry and search provisions that relate to premises, an amendment to the FMA 1991, to enhance search and seizure provisions associated with vehicles and aircraft, has recently been given assent and should be proclaimed in October 2004. This amendment illustrates one of the situations in which the enhanced powers were deemed essential due to the "exceptional and critical circumstances" in which fisheries officers find themselves, and the mobility of the conveyances which are subjected to search.

A number of safeguards have been imposed to ensure that these new powers are not exceeded.

The safeguards are:

- use of the power is limited to situations where consent is not forthcoming from the operator of the vehicle or aircraft, and
- the fisheries officer is to ensure that he/she has reasonable grounds to believe that the vehicle or aircraft contains evidence as to the commission of an offence under the FMA 1991, and
- where practicable, the owner or person in charge of a vehicle or aircraft is to be notified that the officer will be exercising powers under paragraph (1)(e) of the FMA 1991 without a warrant and that the reasons for their use may be requested, and



- as soon as reasonably practical the reasons for exercise of those powers without warrant are to be recorded, and
- upon request by the owner or person in charge of the vehicle or aircraft, the record of those reasons is to be provided to the person affected by the exercise of those powers

If you require any further information in relation to this matter please contact David Jackson on (02) 62725482).

Yours sincerely



Peter Venslovas
Senior Manager
Licensing & Compliance