



Environmental  
Defenders Office

**Submission in response to *Discussion Paper: Towards a  
10 Year Salmon Plan (lutruwita/Tasmania)***

**1 September 2022**

## **About EDO**

EDO is a community legal centre specialising in public interest environmental law. We help people who want to protect the environment through law. Our reputation is built on:

**Successful environmental outcomes using the law.** With over 30 years' experience in environmental law, EDO has a proven track record in achieving positive environmental outcomes for the community.

**Broad environmental expertise.** EDO is the acknowledged expert when it comes to the law and how it applies to the environment. We help the community to solve environmental issues by providing legal and scientific advice, community legal education and proposals for better laws.

**Independent and accessible services.** As a non-government and not-for-profit legal centre, our services are provided without fear or favour. Anyone can contact us to get free initial legal advice about an environmental problem, with many of our services targeted at rural and regional communities.

Environmental Defenders Office is a legal centre dedicated to protecting the environment

**[www.edo.org.au](http://www.edo.org.au)**

Submitted to:

Department of Natural Resources and Environment Tasmania  
Submitted by email to [salmonengagement@nre.tas.gov.au](mailto:salmonengagement@nre.tas.gov.au)

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EDO gratefully acknowledges the assistance of Kate Johnston in the preparation of this submission.

### **A Note on Language**

EDO acknowledges that there is a legacy of writing about First Nations peoples without seeking guidance about terminology. In this submission, we have chosen to use the term “First Nations” to refer to Aboriginal and Torres Strait Islander peoples across Australia. We also acknowledge that where possible, specificity is more respectful. When referring to Tasmanian Aboriginal / palawa / pakana people in this submission we have used the term “Tasmanian Aboriginal”. We acknowledge that not all Aboriginal people may identify with these terms and that they may instead identify using other terms.

### **Acknowledgement of Country**

The EDO recognises First Nations peoples as the Custodians of the land, seas, and rivers of Australia. We pay our respects to Aboriginal and Torres Strait Islander Elders past, present, and emerging, and aspire to learn from traditional knowledges and customs so that, together, we can protect our environment and cultural heritage through both Western and First Laws.

In providing this submission, we pay our respects to First Nations across Australia and recognise that their Countries were never ceded and express our remorse for the deep suffering that has been endured by the First Nations of this country since colonisation.

## Executive Summary

Environmental Defenders Office (EDO) welcomes the opportunity to comment on the Department of Nature Resources and Environment Tasmania's *Discussion Paper: Towards a 10-Year Salmon Plan* (**Discussion Paper**).

The Discussion Paper notes the Government's aspiration for the salmon farming industry to continue "to strive to be sustainable, resilient and innovative". It lists several outcomes "Government policy" could seek to achieve to enable the realisation of this aspiration, including:

1. The community's understanding of the aquaculture regulatory framework and confidence in planning, operational and environmental compliance decisions is improved.
2. Intergenerational economic, social, and environmental opportunities are enhanced.
3. Healthy ecosystems are maintained through robust environmental and biosecurity frameworks.

There can be little doubt after *the Legislative Council Government Administration Sub-Committee "A" Report on Finfish Farming in Tasmania* dated May 2022 (**Inquiry Report**)<sup>1</sup> that community perceptions of the sustainability of the salmon farming industry are deteriorating. As the Chair of the Inquiry, the Hon Meg Webb MLC, notes in her forward to the Inquiry Report, "[w]hile Government progresses plans for expansion of fin fish farming, it is apparent community confidence in the regulation of the industry is reducing."<sup>2</sup> The Inquiry Chair further noted that "[e]vidence indicates the community would appreciate knowing comprehensive consideration has been given to social, cultural, recreational and natural values and is at the heart of planning, regulation, promotion and growth of the Industry in this state." To address these problems, the Sub Committee made a suite of 68 recommendations in the Inquiry Report to improve the transparency and accountability of the regulation of the industry.

EDO supports the Inquiry Report's recommendations and considers that their full implementation could go a significant way towards realising the Government's aspirations for the industry by improving community confidence in planning, operation and environmental compliance decisions relating to salmon farming.

During the public comment period on the Discussion Paper, the Tasmanian Government released its response to the Inquiry Report.<sup>3</sup> While EDO is encouraged that the Government supports (either in full or in-principle) the majority of the Inquiry Report recommendations, it is clear that much more work needs to be done before any expansion of the industry can reasonably be contemplated.

EDO participated in a "pre-formal early engagement" consultation forum on the 10 Year Salmon Plan on 28 April 2022. The following submission is in addition to the comments provided by EDO in response to the Discussion Paper in that forum. We further note that EDO made detailed submissions outlining how lutruwita/Tasmania's marine environment could be managed more sustainably and holistically and in a way that better accounts for both Tasmanian Aboriginal

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<sup>1</sup> Accessible here: [https://www.parliament.tas.gov.au/ctee/Council/GovAdminA\\_Fin.html](https://www.parliament.tas.gov.au/ctee/Council/GovAdminA_Fin.html)

<sup>2</sup> Chair's Forward, Inquiry Report at p 2.

<sup>3</sup> See Tasmanian Government, Response to the Legislative Council Government Administration Sub-Committee "A" Report on Finfish Farming in Tasmania, 16 August 2022, accessible at: [https://www.parliament.tas.gov.au/ctee/Council/GovAdminA\\_Fin.html](https://www.parliament.tas.gov.au/ctee/Council/GovAdminA_Fin.html)

cultural heritage values, and other social and natural values. For example, EDO made the following submissions in recent years:

- [Legislative Council Sub Committee Inquiry into Finfish Farming in Tasmania](#)
- [Review of the Living Marine Resources Management Act 1995 Discussion Paper](#)
- [Draft Aquaculture Standards for Tasmania](#)
- [Draft Environmental Management and Pollution Control Amendment Bill 2022](#)

Rather than repeating the contents of these recent detailed submissions concerning aquaculture and the better regulation of the marine environment, this brief submission addresses the Discussion Paper's focus areas of Governance and Regulation, and Community Engagement. EDO outlines 2 key steps that must be taken by the Tasmanian Government to ensure the regulation of the industry shifts to achieve more ecologically and socially sustainable practices:

- Continue with a moratorium on the expansion of the industry until key recommendations of the Inquiry Report are fully implemented; and
- Fix the regulation of the salmon farming industry & ensure the industry is incorporated into an integrated and ecosystems-based management framework

A **summary of our recommendations** can be found below.

**Recommendation 1:** Fully implement all the recommendations of the Inquiry Report.

**Recommendation 2:** Continue the moratorium on the issuing of new salmon farming leases and increases of stocking limits until an overarching Marine Plan and marine spatial planning exercise (as contemplated by the Inquiry Report) are completed.

**Recommendation 3:** The 10 Year Salmon Plan should include clear and time-bound commitments for the review and reform of lutruwita/Tasmania's coastal and marine laws, and an extension of the moratorium on the issuing of new salmon farming leases and increases of stocking limits until that reform is completed

### **1. Continue with a moratorium on the expansion of the industry until key recommendations of the Inquiry Report are fully implemented**

The Inquiry Report included findings concerning the implementation of the current Salmon Industry Growth Plan, including:

- Community and non-industry stakeholders felt there was an inadequate opportunity for their involvement and input in the development of the Salmon Industry Growth Plan;
- The Government's \$2 billion growth target for the industry was set without consulting scientific experts within the EPA, CSIRO or IMAS; and,
- A comprehensive marine spatial planning process was not undertaken to identify areas suitable for sustainable industry growth.

The Inquiry Report made 68 recommendations to improve the regulation of this growing industry.

The first recommendation of the Inquiry Report was for:

A revised Salmon Industry Growth Plan be developed as one aspect of an overarching Marine Plan for Tasmania, through a process that:

- includes comprehensive stakeholder consultation;
- is informed by assessment of environmental, social and recreational values; and
- has a transparent evidence base.

According to the Inquiry Report, the Salmon Industry Growth Plan was to be informed “through a process of marine spatial planning and [set] an industry growth target for these areas which is transparently developed, sustainable and evidence-based” (recommendation 2). The Plan was to aim to “reduce inshore finfish farming sites, with priority given to ceasing operations in sensitive, sheltered and biodiverse areas” (recommendation 3). The Inquiry Report also recommended that “there be no further expansion of the finfish farming industry in the form of new farming areas or increased stocking limits until the revised Salmon Industry Growth Plan is finalised” (recommendation 4).

On 16 August 2022, the Tasmanian Government indicated either full or in-principal support for most of the Inquiry Report’s 68 recommendations. While the Government appears to have accepted the Inquiry’s recommendations regarding the development of a Marine Plan, marine spatial planning and a moratorium on the expansion of salmon farming, its detailed responses to the recommendations fall well short of what the Legislative Council Sub Committee called for and what is needed to create a modern and sustainable industry into the future.

One significant shortcoming of the Government’s response to the Inquiry Report is that it appears to be pressing ahead with the development of the 10 Year Salmon Plan in the absence of any overarching Marine Plan, and most crucially, without the marine spatial planning that was contemplated by the Inquiry.

The Government response to the Inquiry Report refers to IMAS’s *Statewide Finfish Aquaculture Spatial Planning Exercise: Investigating growth opportunities for finfish aquaculture in Tasmanian coastal waters*,<sup>4</sup> in response to the recommendation that a marine spatial planning exercise be the basis for any salmon industry plan. However, that planning exercise was limited in scope. It was a “sector-based” planning exercise to provide for “growth opportunities for finfish aquaculture in Tasmania using existing information” rather than for a holistic spatial planning process to assist in the assessment of the environmental, social and recreational values of lutruwita/Tasmania’s marine areas and the development of sustainable and evidence-based growth targets as called for in the Inquiry Report.<sup>5</sup> Furthermore, that spatial planning exercise:<sup>6</sup>

- Did not involve fulsome public consultation;

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<sup>4</sup> Lacharité, M., Ross, J., Adams, V., Bush, F., Byers, R., 2021. *Statewide Finfish Aquaculture Spatial Planning Exercise: Investigating growth opportunities for finfish aquaculture in Tasmanian coastal waters*. IMAS Technical Report. IMAS, Hobart, Tasmania, accessible at: [https://www.imas.utas.edu.au/\\_data/assets/pdf\\_file/0009/1558341/REPORT-Statewide-Finfish-Planning-Exercise-Dec2021-updated-Mar2022.pdf](https://www.imas.utas.edu.au/_data/assets/pdf_file/0009/1558341/REPORT-Statewide-Finfish-Planning-Exercise-Dec2021-updated-Mar2022.pdf)

<sup>5</sup> Ibid at p 1.

<sup>6</sup> Ibid from p 61.

- Failed to account for “environmental change” such as climate change;
- Failed to consider Aboriginal cultural heritage values in the seascape and resources;
- Relied on limited and out-of-date data on foreshore uses;
- Relied on limited data on the intensity and distribution of recreational uses and for the environmental conditions at the sites considered;
- Did not provide a detailed review of threatened species in the areas identified as suitable for salmon farming; and,
- Did not consider any deep-sea floor mapping (which is surprising given the proposal to move offshore).

Given these limitations of the IMAS spatial planning exercise, EDO considers that it would be short-sighted and unreasonable to use it as the basis for any expansion of the salmon farming industry. Indeed, even Mark Ryan, CEO of Tassal has expressed dissatisfaction with the conduct of marine spatial planning in Tasmania and encouraged far more proactive engagement with the community on this front.<sup>7</sup>

It is unclear from the Government’s Response to the Inquiry Report whether it is intended that the 12-month moratorium on new salmon farming leases will expire in September 2022.<sup>8</sup> Irrespective of whether the 10 Year Salmon Plan is in place at the time the moratorium expires, EDO is very concerned that the expansion of the industry will continue uninformed by a broader Marine Plan or comprehensive marine spatial planning process.

As part of the 10 Year Salmon Plan, EDO strongly urges the Government to implement **all** the Inquiry’s recommendations concerning the salmon farming industry and continue its moratorium on new salmon farming leases or increased stocking limits until it has properly prepared a Marine Plan, informed by an integrated marine spatial planning exercise.

**Recommendation 1:** Fully implement all the recommendations of the Inquiry Report.

**Recommendation 2:** Continue the moratorium on the issuing of new salmon farming leases and increases of stocking limits until an overarching Marine Plan and marine spatial planning exercise (as contemplated by the Inquiry Report) are completed.

## **2. Fix the regulation of the salmon farming industry & ensure the industry is incorporated into an integrated and ecosystems-based management framework**

To achieve ecologically sustainable and culturally appropriate management of lutruwita/Tasmania’s coastal and marine areas, EDO recommends that the many overlapping coastal marine laws and policies be pulled into an integrated, effective and sustainable legislative framework.<sup>9</sup> This framework needs to fundamentally recognise Tasmanian Aboriginal custodianship over Sea Country and cultural and fishing rights, and provide a legislative basis for a

<sup>7</sup> See Inquiry report from p 66.

<sup>8</sup> See Tasmanian Government, Response to the Legislative Council Government Administration Sub-Committee “A” Report on Finfish Farming in Tasmania, 16 August 2022, at p accessible at: [https://www.parliament.tas.gov.au/ctee/Council/GovAdminA\\_Fin.html](https://www.parliament.tas.gov.au/ctee/Council/GovAdminA_Fin.html)

<sup>9</sup> For more on this framework, refer to EDO’s Submission in response to the Review of the *Living Marine Resource Management Act 1995* (Tas) Discussion Paper, accessible here: <https://www.edo.org.au/publication/submission-in-response-to-the-review-of-the-living-marine-resources-management-act-1995-discussion-paper/>

comprehensive marine spatial planning process informed by the best available science and public consultation and engagement. Such a framework would aim to achieve integrated and ecosystems-based management across the entire coastal and marine environment (in contrast to the current piecemeal, sector-based approach that does not allow for proper consideration of all the benefits and risks of different uses and management approaches). EDO's recommendation for the review and reform of coastal and marine laws is supported in the Inquiry Report, which included numerous recommendations to strengthen and improve lutruwita/Tasmania's salmon farming legislative framework to ensure it was properly regulating the environmental and social impacts and provided proper marine spatial planning.

One of the key recommendations of the Inquiry Report was for the Government to undertake a comprehensive review of the *Marine Farming Planning Act 1995* (Tas) (recommendation 11). The Inquiry Report also made many recommendations relating to issues that should be addressed as part of or in conjunction with that review, including (but not limited to): reform of the composition and functioning of the Marine Farming Planning Review Panel, development of clear criteria for approval decisions and transparent Water Quality Objectives (**WQOs**), imposition of limits on stocking density and pollution from salmon farms, and the strengthening of merits appeal rights and compliance and enforcement.

While EDO is encouraged by the Government's in-principle support for many of these recommendations,<sup>10</sup> we are disappointed that the recommended review of the *Marine Farming Planning Act 1995* (Tas) will only occur upon the conclusion of the review of the *Living Marine Resource Management Act 1995* (Tas).<sup>11</sup> In the meantime, it appears the Government is intent on pressing ahead with the 10 Year Salmon Plan and its support for the growth of the industry. Such an approach means that laws the community, and in some cases the industry, consider to be inadequate, and which have been found wanting by the Legislative Sub Committee on Finfish Farming, will continue to be used as the basis for Government approvals and regulation at a critical phase of the expansion of this industry.

In EDO's view, the industry should not be permitted to continue to grow until the regulation of the salmon farming industry is significantly improved and is incorporated into an integrated and ecosystems-based management framework for our marine and coastal areas. The 10 Year Salmon Plan should therefore include clear and time-bound commitments for the review and reform of lutruwita/Tasmania's coastal and marine laws, and an extension of the moratorium on the expansion of the industry until that reform is completed.

**Recommendation 3:** The 10 Year Salmon Plan should include clear and time-bound commitments for the review and reform of lutruwita/Tasmania's coastal and marine laws, and an extension of the moratorium on the issuing of new salmon farming leases and increases of stocking limits until that reform is completed.

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<sup>10</sup> Albeit the Government does not support the imposition of clear limits on stocking and pollution, or the publication of WQOs – elements that EDO considers are crucial to providing better transparency and accountability in the regulation of this industry.

<sup>11</sup> This review expressly excluded consideration of most elements of marine farming. See NRE, *Modernising Tasmania's Fisheries Legislation, A Review of the Living Marine Resources Management Act 1995: Discussion Paper* at p 9.