

General Purpose Standing Committee No. 5

Commercial fishing in New South Wales

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Terms of reference

1. That General Purpose Standing Committee No. 5 inquire into and report on commercial fishing in New South Wales, and in particular:
 - (a) the history of commercial fishing in New South Wales, including reforms to the industry since 1994,
 - (b) the value of the commercial fishing industry to the New South Wales economy,
 - (c) the scientific research underpinning fisheries management,
 - (d) current arrangements for the assessment of fisheries by the NSW Department of Primary Industries Fisheries Resource Assessment Unit,
 - (e) the New South Wales Government's Commercial Fisheries Business Adjustment Program and its aims, including:
 - (i) the relevance of the Draft Productivity Commission Report into Marine Fisheries and Aquaculture,
 - (ii) the implementation of the restructure to date,
 - (iii) the impact on industry and regional communities to date, including economic, social and cultural impacts,
 - (iv) the economic modelling underpinning the restructure and any independent analysis of that modelling,
 - (v) the approach of other jurisdictions.
2. That the committee table an interim or final report by 28 February 2017.

The terms of reference were self referred on 17 November 2016.¹

¹ *Minutes*, NSW Legislative Council, 17 November 2016, p 1362.

Committee details

Committee members

The Hon Robert Brown MLC	Shooters, Fishers and Farmers Party	<i>Chair</i>
The Hon Mick Veitch MLC	Australian Labor Party	<i>Deputy Chair</i>
The Hon Rick Colless MLC	The Nationals	
Mr Justin Field MLC*	The Greens	
The Hon John Graham MLC*	Australian Labor Party	
Mr Scot MacDonald MLC	Liberal Party	
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* Mr Justin Field MLC substituted for Mr Jeremy Buckingham MLC for the duration of the inquiry.

* The Hon John Graham MLC substituted for the Hon Penny Sharpe MLC for the duration of the inquiry.

Chair's foreword

For over 20 years successive governments have sought to address the challenges facing the commercial fishing sector in New South Wales. With the exception of two of the state's 24 fishing classes, there is little to show for these attempts.

The pressures facing the commercial fishing industry derive partly from the historic over-allocation of shares in 2007. This has created significant latent effort which should have been addressed before any attempt to restructure the industry. Increased competition for fishing resources from recreational fishers and environmental interests have added to the challenges faced by the industry.

It is not surprising that the government is intent on implementing fisheries reform via the Business Adjustment Program. As the Minister for Primary Industries, the Hon Niall Blair told the committee, 'business as usual' is not an option.

While we acknowledge that reform is needed, the implementation of the program to date has been less than ideal. We heard from dozens of fishers, mostly small scale operators, who feel anxious about the impact of the reforms. The government has acknowledged that its communication with fishers could have been much better and we hope that our recommendations, particularly in relation to the role of the Small Business Commissioner, will help to address some of these concerns.

We also heard from fishers who questioned the integrity of the subsidised share trading market. We have therefore recommended that the government appoint a probity auditor to scrutinise the market when it goes live.

As there is a need to maintain a watching brief on the progress of the reforms, we have recommended that the government require the soon to be established NSW Commercial Fishing Advisory Council (CommFish) to report to Parliament on the progress of the reforms. This should be undertaken in consultation with the representative body for New South Wales fishing co-ops.

Finally, we are hopeful that the establishment of an effective industry body, supported by government but driven by fishers, will help ensure the viability of this important sector.

This has been a complex inquiry conducted within a very short timeframe, so on behalf of the committee I would like to thank all who participated, including the many fishers who gave up their time to come to Parliament to share their views or to prepare a detailed submission. Thank you also to the secretariat staff and Hansard reporters for supporting the inquiry.

I look forward to receiving the government response to the report.



The Hon Robert Brown MLC
Committee Chair

Recommendations

- Recommendation 1** **5**
That the NSW Department of Primary Industries re-open applications for the fishing business buyout and keep them open until closer to the start of the subsidised share trading market.
- Recommendation 2** **10**
That the NSW Government fast track the Independent Allocation Panel process where possible, providing the additional resources necessary to ensure that the published timeframes of July 2018 are met for all remaining share classes.
- Recommendation 3** **14**
That the Minister for Primary Industries:
- appoint a probity auditor before June 2017 to scrutinise the implementation of the subsidised share trading market
 - appoint a separate probity auditor to review the role and involvement of the Structural Adjustment Review Committee in addressing potential conflicts of interest.
- Recommendation 4** **16**
That the NSW Department of Primary Industries assess the level of assistance provided to fishing co-operatives.
- Recommendation 5** **18**
That the NSW Department of Primary Industries confirm arrangements for the involvement of the Small Business Commissioner by April 2017 and ensure that these arrangements are communicated to the commercial fishing industry.
- Recommendation 6** **18**
That the NSW Department of Primary Industries extend the period for commercial fishers to apply for Financial Advice Grants from 2018 until 2020 and increase the grant limit for both legal and financial advice to \$2,000.
- Recommendation 7** **18**
That the Department of Primary Industries ensure that individual case management is offered to fishers who leave the industry and for whom retraining assistance is not sufficient to regain employment.
- Recommendation 8** **21**
That the NSW Department of Primary Industries continue to implement the Business Adjustment Program in accordance with the published timeframes.
- Recommendation 9** **21**
That the NSW Government require the NSW Commercial Fishing Advisory Council (CommFish), in consultation with NSW Fishermen's Co-operative Association, to report to Parliament on the progress of the commercial fishing reform process during the reform period, on an annual basis.

- Recommendation 10** **31**
 That the NSW Government ensure that its response to the committee’s report includes a detailed timeframe for the implementation of each of the recommendations of the 2016 *Review of the current NSW Resource Assessment Framework* by John McKoy and Kevin Stokes.
- Recommendation 11** **31**
 That the NSW Department of Primary Industries introduce a penalty demerit scheme by the end of 2018.
- Recommendation 12** **31**
 That the NSW Department of Primary Industries prioritise the introduction of electronic catch recording systems, including opportunities to install such systems in fishing co-operatives.
- Recommendation 13** **35**
 That the NSW Department of Primary Industries commission a Social Impact Assessment of the Business Adjustment Program on commercial fishers in New South Wales and make the findings of the assessment public.
- Recommendation 14** **41**
 That the Minister for Primary Industries:
- establish the Commercial Fishing Advisory Council (CommFish NSW) by July 2017, in accordance with the NSW Government Boards and Committees Guidelines. The Council should be broadly representative of the industry and include Aboriginal and recreational fishers.
 - ensure that members of the NSW Commercial Fishing Advisory Council receive appropriate support and training.
- Recommendation 15** **42**
 That the NSW Government assist industry to establish a peak body for commercial fishing in New South Wales to improve communication within the industry and enhance industry input into the future management of fisheries in New South Wales. This body should receive sustainable funding to strengthen the reform process.
- Recommendation 16** **45**
 That the Minister for Primary Industries ensure that the Aboriginal Commercial Fishing Trust is fully operational by July 2017.
- Recommendation 17** **45**
 That the Department of Primary Industries give further consideration to the continuation of permits in certain circumstances for Aboriginal commercial fishers.
- Recommendation 18** **47**
 That the NSW Government:
- complete its consultation on a country of origin labelling scheme for seafood sold for immediate consumption and commence implementation of a labelling scheme with any necessary funding by December 2017
 - consider the creation of a New South Wales seafood label as part of the planned community awareness program.

Conduct of inquiry

The terms of reference for the inquiry were self-referred by the committee on 17 November 2016.

The committee received 170 submissions and 11 supplementary submissions.

The committee held three public hearings at Parliament House in Sydney.

Inquiry related documents are available on the committee's website, including submissions, hearing transcripts, tabled documents and answers to questions on notice.

Chapter 1 The Business Adjustment Program

This chapter discusses the key elements of the commercial fisheries Business Adjustment Program and inquiry participants' concerns about its impact on their businesses. It begins with a brief background to share managed fisheries in New South Wales.

Structural reform of NSW fisheries – A brief history

- 1.1** The structural adjustment of the commercial fishing industry has been on the agenda in New South Wales since the early 1990s. The first step towards reform began with the introduction of the *Fisheries Management Act 1994* which sought to introduce share management to New South Wales fisheries. Share management schemes allocate shares to eligible fishers and link these shares to access rights. It was envisaged that share management would provide fishers with a valuable and tradeable property right, thus helping to protect the viability of their business, as well as ensuring the sustainability of the State's fish stock.
- 1.2** However, 20 years on, Rock Lobster and Abalone are the only New South Wales fisheries that have progressed to full share management. The key impediment to full implementation of share management to the other fisheries was the historic over-allocation of shares. In 2007, shares in most fisheries were allocated on a flat basis with little regard to catch history. With too many fishers and not enough fish, many businesses would have required more shares than they had been allocated in order to keep fishing at the same levels.² And until this latent effort was addressed, it would not be possible to 'switch' on the link between shares and resource allocation, a fundamental element of share management schemes.
- 1.3** The Minister for Primary Industries, the Hon Niall Blair MLC, used the following case study from the Myall River to illustrate the impact of this 'gross' over-allocation in 2007:
- There are approximately 160 prawning shareholders in this area, and approximately 30 fishers usually contest the ballot At some ballots the number has ballooned to 90 or more fishers. Because shares provide fishers with access only, there is no way to share the resource viably or to ascribe any real value to the shares. In the past, governments have managed this by imposing onerous regulation on the industry, which has made it as inefficient as possible. ... These regulations are tying fishers in knots. ... If we have to tell a fisher how to use a prawn net and to avoid knots and tangles, then I would suggest that that person should not be fishing. This is no way to empower an industry to grow and innovate.³
- 1.4** In 2012 an independent review team commissioned by the O'Farrell Government and headed by Mr Richard Stevens OAM, the former head of the Fisheries Research and Development Corporation, concluded that structural reform was imperative, particularly in light of increasing competition from recreational fishers and marine parks:

² Richard Stevens, Ian Cartwright, Peter Neville, *Independent review of NSW Commercial fisheries policy, management and administration*, 2012, p iii.

³ Evidence, The Hon Niall Blair MLC, Minister for Primary Industries, 19 December 2016, pp 1-2.

An inflexible and inappropriate management system burdened by an excess allocation of access rights (too many fishers for too few fish) continues to prevent industry self-adjustment. Loss of fishing areas to Marine Parks and Recreational Fishing Havens coupled with a range of unfavourable cost/price factors have further exacerbated the problem, leading to an increasing number of economically non-viable operators.⁴

- 1.5 In November 2012 the government announced its support for the recommendations of the Review and committed to extending full share management to fisheries.⁵

The Business Adjustment Program

- 1.6 In May 2016 Minister Blair announced the Business Adjustment Program which would implement many of the recommendations of the Independent Review of NSW Commercial fisheries. According to the Minister: ‘Business as usual is not an option’. Without such action, he told the committee, the commercial fishing industry in New South Wales would ‘slide slowly towards self-destruction’,⁶ as indicated by the large and increasing number of inactive fishers, low average earnings and high rates of non-compliance.⁷ The key dates for the implementation of the program can be found in Table 1.

Linking shares to access

- 1.7 A central element of the Business Adjustment Program is the linking of shares to a resource entitlement, that is, to the number of fish caught (quota) or to fishing effort (number of days fishing or type of equipment used). In other words, owning a certain number of shares will entitle a fisher to catch a certain quantity of fish or to expend a particular amount of effort.
- 1.8 Under the program linkages will be implemented across 24 share class groups in five fisheries and fishers will need a minimum number of shares to obtain endorsement in a particular class. For most of the 24 share classes, the total ‘pie’ from which allocations to individual fishers will be made has been calculated on an interim basis. These are known as interim total commercial access levels (ITCALs). The number of shares held by a fisher will determine how much of the ‘pie’ the fisher can access.⁸ Most of these linkage arrangements are due to take effect on 1 July 2017. So, for example, all fishers in the Estuary General – Mud Crab Trapping share class will be required to hold a minimum of 125 shares to be endorsed to fish from July 2017.
- 1.9 The interim access levels are due to remain in place until 2024, although the Minister indicated that this date, which had already been changed in response to industry consultation, might change once again:

⁴ Richard Stevens, Ian Cartwright, Peter Neville, *Independent review of NSW Commercial fisheries policy, management and administration*, 2012, p i.

⁵ Media release, Hon Katrina Hodgkinson MP, Minister for Primary Industries, ‘Commercial Fisheries Report Released’, 25 May 2012.

⁶ Evidence, The Hon Niall Blair MLC, 19 December 2016, p 2.

⁷ Submission 79, Department of Primary Industries, p 8.

⁸ Submission 79, Department of Primary Industries, Attachment L – Components of the Business Adjustment Program, p 2.

The New South Wales Government would consider expediting the formation of working groups advising the new Ministerial Council that could recommend that the ITCALS be reviewed sooner, as required.⁹

- 1.10** In 2024 (or thereabouts) ITCALS will be replaced with Total Allowable Catch (TAC) or Total Allowable Effort (TAE) classifications. TACs and TAEs will be determined by the Total Allowable Fishing Committee (TAF) which is an independent committee of experts which will seek advice and input from fishers.¹⁰
- 1.11** Linkage arrangements for a small number of other share classes will be considered by an Independent Allocation Panel (IAP). These linkages are scheduled to take effect in December 2018.¹¹ (See paragraph 1.39-1.49)

The Adjustment Subsidy Program

- 1.12** The \$16 million Adjustment Subsidy Program (\$14 million from the State Government and \$2 million from the commercial fishing industry) is the primary vehicle to help fishers to adjust to the new arrangements, either by funding fishing buyouts (a maximum \$20,000 to buy out eligible fishers) or subsidising the purchase price of shares for active fishers who wish to remain in the industry.

The subsidised share market

- 1.13** The subsidised market is due to open on 1 May 2017 and registrations to participate close on 27 March 2017.¹² While all share owners are able to participate in the market, only active fishers will qualify for the subsidy.
- 1.14** Applications for the fishing buyout scheme closed on 30 January 2017.
- 1.15** The market will initially open for a period of one week after which a process of ‘matching’ buyers with sellers will take place. A number of market rules will inform the matching process. For example, bids from active fishers with a share deficit (or a shortfall to secure endorsement) will be of utmost priority for matching, followed by bids from active fishers without a share shortfall. The next priority is afforded to fishers who want to sell all of the shares in their business, that is, ‘package offers’. Finally, bids from non-active businesses will be considered, although these bids will not receive a subsidy.
- 1.16** After the market closes, the information will be analysed and the subsidy applied with a view to optimising the number of successful matches. The outcome of this exercise will be

⁹ Evidence, The Hon Niall Blair MLC, 19 December 2016, p 3.

¹⁰ Submission 79, Department of Primary Industries, Attachment L – Components of the Business Adjustment Program, p 2.

¹¹ Department for Primary Industries, Frequently asked Questions, Total catch and effort levels, <<http://www.dpi.nsw.gov.au/fishing/commercial/reform/faq>>.

¹² The committee understands the department has recently issued information packs to fishing businesses relating to the roll-out of the subsidised share trading market. Correspondence from Mr David McPherson, Group Director, Commercial Fisheries and Aquaculture, to the committee secretariat, 26 January 2017.

assessed by the Evaluation Panel¹³ which will then advise the Director General, Department of Primary Industries, as to the most appropriate course of action.

- 1.17** The bids placed by the fishers and the application of the subsidy will determine the purchase and sale price of the shares. A universal pricing mechanism will be applied. This means that irrespective of the individual bids and offers placed, all shares sold in a particular share class will be sold at the *same* price and all shares purchased in the same share class will be purchased at the *same* price.
- 1.18** This means that the majority of fishers seeking to buy shares will pay less than they bid, and in the case of those selling shares, will receive more than they offered.¹⁴
- 1.19** If a high proportion of bids have been matched the market will end. However, if bids and sell offers are too far apart, making it impossible to match them even with the application of the subsidy, a second and possibly third round may be held. This will provide fishers with a chance to adjust their bids and increase the chance of a successful transaction. Market rounds will take place back to back and if all three rounds are held, the process will take six weeks to complete.

The trial market

- 1.20** A preview share trading market was held in November 2016 to provide shareholders an opportunity to practice placing bids and offers. A total of 452 businesses registered for the preview.¹⁵ Several inquiry participants were critical of the trial, including south coast commercial fisher, Ms Tisha Limon, who stated that the trial was ‘rubbish’:

You put a couple of numbers into a screen and that was it. Then with the information, as I said in my submission, if you are wanting to put a range between one and 20 they put a cap on it. So if you are sitting at 40 shares and you have got to put a range from one to 20 but you actually need 20, everything is being too complicated for a lot of us. I do not have a university degree and I am certainly not a stockbroker or somebody who plays the stock market—¹⁶

- 1.21** Mr Michael Cheers, a fifth generation fisherman, voiced concerns about a lack of communication since the trial market:

We have had no feedback on how this went and no communication regarding this. We have been left in the dark and not knowing what to decide regarding our livelihood due to lack of information and facts.¹⁷

¹³ The Evaluation Panel is comprised of representatives of Department Primary Industries, NSW Treasury, Independent Pricing and Regulatory Tribunal, Department of Premier and Cabinet and the independent probity advisor.

¹⁴ Department of Primary Industries, Adjustment Subsidy Program – Preview share trading market, Market Summary, December 2016, <http://www.dpi.nsw.gov.au/__data/assets/pdf_file/0008/689858/Preview-market-summary.pdf>

¹⁵ Submission 79, Department for Primary Industries, p 11.

¹⁶ Evidence, Ms Tisha Limon, Co-owner, Nautilus Fisheries, 19 December 2016, p 36.

¹⁷ Submission 39, Mr Michael Cheers, p 1.

- 1.22 The department acknowledged that some fishers experienced issues logging onto the system, but advised that these were resolved over calls to the hotline.¹⁸

Table 1 Business Adjustment Program – Key dates¹⁹

30 January 2017	- Applications for the low interest loans closed - Applications for fishing business buy-outs closed - Share transfer applications for those wishing to participate in the subsidised share trading market closed
30 January 2017	- Registrations open for the subsidised share trading market
17 February 2017	- Submissions for review of catch records close
27 March 2017	- Registrations close for the subsidised trading market
1 May 2017	- Subsidised share trading market opens (This will last for a period of up to 6 weeks to allow for up to three rounds of open market trading and analysis)
1 July 2017	- Quota arrangements commence for identified share classes ²⁰
31 May 2018	- Applications for professional advice grants close
December 2018	- Quota arrangements commence for remaining share classes
2024	- ITCAL arrangements (Interim Total Catch Access Levels) end

Committee comment

- 1.23 The committee recognises the complexity of the Business Adjustment Program for many fishers and the challenge in making decisions. We consider it appropriate to re-open applications for the fishing buyout and keep them open until closer to the start of the subsidised share trading market to give fishers the maximum amount of time to consider their options.

Recommendation 1

That the NSW Department of Primary Industries re-open applications for the fishing business buyout and keep them open until closer to the start of the subsidised share trading market.

¹⁸ NSW Department of Primary Industries, Adjustment Subsidy Program, Preview share trading market – Market summary, 8 December 2016, p 3.

¹⁹ Department of Primary Industries, *New South Wales Commercial Fisheries Business Adjustment Program, Things you need to know*, 2016, p 2, <http://www.dpi.nsw.gov.au/__data/assets/pdf_file/0008/693836/Things-you-need-to-know.pdf>; Department of Primary Industries, Adjustment Subsidy Program – Assistance measures, <<http://www.dpi.nsw.gov.au/fishing/commercial/reform/faq>>

²⁰ For information on specific share class linkages decisions see: Department of Primary Industries, Share Class Linkage Decisions, <<http://www.dpi.nsw.gov.au/fishing/commercial/reform/decisions>>

Concerns about the Business Adjustment Program

1.24 Most of the submissions and evidence received during the inquiry were from small scale fishers who are deeply anxious about the impact of the Business Adjustment Program on their businesses. Their concerns include: the affordability and availability of shares and the uncertainty surrounding the new arrangements; the adequacy of the \$16 million Adjustment Subsidy Program; probity issues surrounding the sale and purchase of shares; and the specific impact of the program on fishing co-ops. Poor communication from DPI- Fisheries was also raised as a concern; this is discussed further in chapter 2.

Affordability and availability of shares

1.25 The committee heard from many fishers who were concerned by the prospect of having to purchase additional shares to keep fishing at their current levels, meaning, that they have to 'buy back their jobs'. These fishers hold two interrelated concerns: first, that they will not be able to afford the shares they need to keep working, and second, that there will not be enough shares available to purchase in the subsidised market.²¹

1.26 Most of these fishers felt that they were being made to fund the government's attempts to remove the latent effort stemming from the historic over-allocation of shares in 2007. Mr Christopher Baggaley told the committee that he thought it was wrong to force him to keep investing just because there is some latent effort in some areas of New South Wales.²²

1.27 Mr Richard Brown, General Manager of Markwell Fisheries said: 'We find it unconscionable that government would force commercial fishers to pay for more shares to remain at their current level of effort.'²³

1.28 David Mehan MP, Member for The Entrance, met with 30 commercial fishers in his electorate who told him: "we are being asked to buy our jobs back".²⁴

1.29 Fishers who rely on diversified business models were particularly anxious about the cost and availability of shares. These fishers work across multiple fishing classes, have a variety of different endorsements, and choose to work a particular class based on economic or other considerations. As commercial fisher, Mr Michael Cheers, explained:

My endorsements include trapping, mud crab trapping, meshing, category 2 hauling, handline & hauling crew and prawning. By having a variety of endorsements this creates sustainability as I am not exhausting just one method. I am doing something different from week to week depending on the weather conditions. I am guided by my five generations of knowledge.²⁵

²¹ See for example: Submission 1, Mr Troy Jones, p 1; Submission 8, Mr David Malone, p 7; Submission 33, Markwell Fisheries, p 2; Submission 49, Name Suppressed, p 1; Evidence, Mr Paul Heron, Commercial fisher from the Illawarra, 19 December 2016, p 28; Evidence, Mr Brendon Limon, Co-owner, Nautilus Fisheries, 19 December 2016, p 34.

²² Submission 82, Mr Christopher Baggaley, p 8.

²³ Submission 33, Markwell Fisheries, p 1.

²⁴ Submission 90, The Hon David Mehan, Member for The Entrance, p 2.

²⁵ Submission 39, Mr Michael Cheers, p 1.

- 1.30 These fishers are concerned they will be forced to specialise because they will not be able to afford to buy the number of shares necessary to receive endorsement in the variety of classes that they currently fish.²⁶

Trading prior to the subsidised market

- 1.31 Given the uncertainty surrounding the supply of shares, some inquiry participants have purchased shares in advance of the subsidised market. Indeed, as the department advised, following the announcement of the Business Adjustment Program in May 2016, more than 70,000 shares were privately traded, up to three times the monthly average for the last ten years.²⁷
- 1.32 Mr Brendon Limon, a commercial fisher explained that although the shares are currently expensive: 'I do not know that I will get the shares that I need. If I buy them now, I know they are mine',²⁸ noting that such decisions for small scale fishers are especially stressful given their average income levels:

I am not on rock star wages, I do not get super or holiday pay ... You, or someone, has drawn a line in the sand and said I cannot go in six months' time. Would you not get yourself across the line? ... No-one is going to come and bail me out, mate. I have to support my family. That is why we bought more shares, because we cannot risk the game that is set up at the moment.²⁹

The department's response to fishers' concerns

- 1.33 The department sought to allay fishers' concerns about the impact of the Business Adjustment Program on their businesses.
- 1.34 The department advised that only a relatively small number of fishing businesses would need to purchase additional shares to keep fishing at current levels. This is because 68 per cent of fishing businesses have sufficient shares to continue to fish at the maximum level recorded in the last five years. Furthermore, only 15 per cent of fishing businesses needed more than 50 shares to be able to fish at the maximum level recorded in the last five years.³⁰
- 1.35 The government informed the committee that it was working with fishing businesses unable to secure the minimum number of shares needed in the subsidised trading market.³¹

²⁶ See for example: Submission 85, Professional Fishers Association, p 33; Submission 86, Mr Garry Braithwaite, p 1; Submission 96, Hawkesbury River Seafood, p 14.

²⁷ Submission 79, Department of Primary Industries, p 4.

²⁸ Evidence, Mr Limon, 19 December 2016, p 37.

²⁹ Evidence, Mr Limon, 19 December 2016, p 37.

³⁰ Supplementary Submission 79a, Department of Primary Industries, p 3. These figures were strongly refuted by the NSW Wild Caught Fisher's Coalition which asserted that their own analysis had indicated that many more fishers required additional shares in order to keep fishing post July 2017. See Evidence, Mr Dane Van der Neut, President, NSW Wild Caught Fishers Coalition, 14 December 2016, p 9; Supplementary Information, Wild Caught Fishers Coalition, Ocean Hauling Fishery Shares and Shareholdings, Estuary General Fishery Shares and Shareholdings, Ocean Trap and Line Fishery Shares and Shareholdings, Estuary Prawn Trawl Fishery Shares and Shareholdings; Ocean Trawl Fishery Shares and Shareholdings, December 2016.

³¹ Supplementary Submission 79a, Department of Primary Industries, p 5.

According to Mr Hansen, DPI Director General, 'we will have a range of solutions tailored and targeted to those who get out at the end of the process who have actively tried to participate in the process'.³² This commitment was affirmed by the Minister, who also flagged that the Small Business Commissioner may be able to assist such individuals.³³

1.36 The Minister pointed out that tailored assistance was only available to fishers who engaged with the process: 'We need the fishers to engage with the process so that we can identify those who may need independent or special consideration'³⁴

1.37 With regards to fishers paying inflated prices for shares, the department advised that the share prices being quoted were often significantly inflated and the estimates did not take the subsidy into account which will substantially reduce the cost for fishers.³⁵ As the Minister explained:

Some of the fishers' fears are the result of confusion and misunderstanding about how they have come up with the numbers. I hope that the advice I have provided proves that their concerns are unwarranted, but we will not know until we go through the process.³⁶

1.38 In his submission, Mr Mark Wanless,³⁷ a commercial fisher with more than two decades of industry experience, expressed the reform fatigue and confusion being felt by many of his colleagues who participated in the inquiry.

Mr Mark Wanless, NSW commercial fisher

I have been a commercial fisherman in NSW since 1990 when I was told by the fisheries department that I must 'show a substantial financial commitment to the industry' to be eligible for a NSW commercial fishing licence. This I did by buying a fishing business with confidence that as a primary producer I could make my living and support the local economy by supplying fresh seafood to the public. I have been involved in many different fisheries in NSW including hand gathering, fish trap and handline, beach haul, estuary meshing and handling, purse sein and longline. I have shown my commitment to the industry both financially and physically.

Now I am being told that I have to show more financial commitment by buying my job back, a job that I have given a large part of my life to. Due to financial circumstances beyond my control I am a part time fisherman now. I am not in a position to borrow tens of thousands of dollars to buy enough shares to continue to do what my statutory fishing rights supposedly guaranteed me when our shares were allocated. I am 57 years old and well past my used by date for career change.

³² Evidence, Mr Scott Hansen, Director General, Department of Primary Industries, 19 December 2016, p 8.

³³ Evidence, The Hon Niall Blair MLC, 19 December 2016, p 6.

³⁴ Evidence, The Hon Niall Blair MLC, 19 December 2016, p 13.

³⁵ Supplementary Submission 79a, Department of Primary Industries, p 6.

³⁶ Evidence, The Hon Niall Blair MLC, p 13.

³⁷ Submission 140, Mr Mark Wanless, pp 2-3

I rely heavily on the income that I get from commercial fishing to manage my expenses, mortgages, loan repayments, my children's education, etc. Because I work at a second job I am not eligible for the rural assistance loan which is available to other fishers to restructure their businesses to accommodate the BAP. This discrimination is a contributing factor to me being forced out of the fishing industry.

.... Since the first notification from the DPI that 'reform' was coming, myself and almost all fishermen in NSW have been confused and frustrated as to why we must pay to continue to fish. The BAP managers have not given any structured plan or advice to any fisher. To date the structure of the reform has taken so many turns that we don't have any idea where we stand. Nobody, including DPI, knows how it will be implemented, how much it will cost, if enough shares will be available to continue fishing, what, if any benefits it will bring to sustainability of fish stocks.

Uncertainty surrounding the Independent Allocation Panel

- 1.39** There are some classes of fish for which share arrangements have not been finalised. The total effort or quota for these classes will be determined by the Independent Allocation Panel. At present this will be for 18 species or species groups. Those fishers who rely on fishing classes due to be processed by the Independent Allocation Panel have even less certainty regarding the impact of the reforms on their businesses
- 1.40** According to DPI, new species shares will be issued to fishing businesses by July 2018, following advice from the IAP. A total allowable catch for each species will be determined with quota arrangements due to commence by December 2018.³⁸
- 1.41** As the Professional Fishermen's Association [PFA] noted, 'those fisheries going through the Independent Allocation Process are also questioning how they can "further invest" in their shares when their quota allocation criteria are completely unknown'.³⁹
- 1.42** This issue was illustrated by Mr David Malone, who explained:
- I do not know how to participate in the upcoming auction for the line East Fishery when Fisheries cannot tell me how they intend to manage the Fishery until after the independent allocation committee makes a decision at the earliest 2018.⁴⁰
- 1.43** Acknowledging the lack of certainty for these fishers, the department stated that:
- ... in response to feedback from the recent consultation managed by independent consultant Neil McDonald, as well as from the Professional Fisherman's Association, the NSW Government will consider additional assistance for relevant shareholders involved in the IAP process, if required.⁴¹

³⁸ Department of Primary Industries, Share Class Linkage Decisions, <<http://www.dpi.nsw.gov.au/fishing/commercial/reform/decisions>>.

³⁹ Submission 85, Professional Fishermen's Association, p 17.

⁴⁰ Submission 8, Mr David Malone, p 3.

⁴¹ Department of Primary Industries, Frequently asked Questions, Adjustment Subsidy Program – Assistant Measures, Will assistance be available for shareholders in the IAP process, <<http://www.dpi.nsw.gov.au/fishing/commercial/reform/faq>>.

- 1.44 According to the department, the IAP is being used where new shares and quota are being created. At present this will be for 18 species or species groups. The IAP process will apply where there is likely to be an unacceptable distortion if new shares were allocated evenly across the shareholders.
- 1.45 A hypothetical example might be that fishers in the hand gathering share class are all entitled to catch pipis but they really are only caught by two or three fishers. If we distributed the shares and quota evenly to all shareholders then the two or three fishers would have to buy all the other shares or quota in order to keep fishing at the same levels.
- 1.46 In these instances the department will be asking the IAP to develop a fair process to allocate the shares amongst the fishers that catch those species. Fishers will be provided with an opportunity to explain to the IAP their views and evidence to support how shares and quota should be allocated.⁴²

Committee comment

- 1.47 The committee notes that until the IAP process has been completed for the remaining classes of fish, it is difficult for those fishers to make share decisions. These fishers are suffering significant uncertainty and will continue to do so until arrangements for the new species shares have been finalised in July 2018. It is also difficult for the department to make management decisions and to assess the level of assistance that these businesses may require.
- 1.48 We therefore recommend that the IAP process be fast tracked to ensure that at the very least, the government adheres to the July 2018 deadline for shares to be issued to these classes. We also suggest that the panel announce the Total Allowable Catch for each individual share class rather than wait until all of the relevant share classes have been assessed by the IAP. If necessary, the IAP should be provided with additional resources to facilitate this fast tracking.
- 1.49 Subsidised share trading should not commence for any of these affected IAP share classes in May 2017 but should commence as soon as the Total Allowable Catch and share allocation arrangements for each of those individual classes are known.

Recommendation 2

That the NSW Government fast track the Independent Allocation Panel process where possible, providing the additional resources necessary to ensure that the published timeframes of July 2018 are met for all remaining share classes.

⁴² Email from Mr David McPherson, Group Director, Commercial Fisheries and Aquaculture Fisheries, NSW Department of Primary Industries, to the committee secretariat, 15 February 2017.

Is \$16 million enough?

- 1.50** Some inquiry participants questioned whether \$16 million was sufficient to ensure the effective implementation of the Adjustment Subsidy Program, including marine economist, Professor Alistair McIlgorm:

I suspect this sum for reform was too small to ensure “autonomous self-adjustment”. I did a back of the envelope calculation...and indicated that the risk to marine parts from the commercial fishing industry was higher than stated by DPI, because in my opinion \$17m was too little to reform the fishing industry to sustainable levels...\$30m to \$40m was likely more realistic.⁴³

- 1.51** Professor Steven Kennelly also did not consider the \$16 million was sufficient. Reflecting on what would be a more appropriate value for the subsidy, he stated:

The answer to that would require a fairly significant economic survey of what the various choices are open to individual fishermen, but why I have made that statement is that the \$16 million just would not be sufficient in order for people to match the amounts of share and share trading and so on that would be required to meet the structural reform targets.⁴⁴

- 1.52** The department assured the committee that \$16 million would be sufficient to complete the adjustment to its completion:

The NSW Government is confident that \$16 million is sufficient for the Adjustment Subsidy Program, and will provide fishers with the very best price for shares through the subsidised share trading market...This will help approximately 390 fishing businesses adjust plus fund buyout payments.⁴⁵

- 1.53** Furthermore, the government advised that the subsidy being applied was equivalent to approximately 20 per cent of the value of the commercial fishing industry, and that this was appropriately double that provided by the Commonwealth government during its restructuring process:

The NSW Government will contribute approximately 20% of the value of the commercial fishing industry. The industry (excluding the rock lobster and abalone fisheries) contributes approximately \$80 million in Gross Value of Production. In comparison, the Commonwealth contributed 10% through a \$220 million structural adjustment package for an industry that was worth \$2.3 billion in Gross Value of Production.⁴⁶

- 1.54** The committee also heard testimony from Associate Professor Kathryn Barclay from the School of International Studies, UTS who conducted a study from 2014 to 2016 to evaluate the contribution of professional fisheries to NSW coastal communities which determined

⁴³ Submission 87, Professor Alistair McIlgorm, Marine Economist, p 2.

⁴⁴ Evidence, Professor Steven Kennelly, Director, IC Independent Consulting (ex DPI Chief Scientist), 14 December 2016, p 53.

⁴⁵ Supplementary Submission 79a, Department of Primary Industries, p 3.

⁴⁶ Supplementary Submission 79a, Department of Primary Industries, p 3.

that the NSW professional fishing industry contributes more than \$436 million in revenue annually.⁴⁷

Committee comment

- 1.55** The committee acknowledges that changes to the rules relating to the Adjustment Subsidy Program may distort the market and present legal challenge. We therefore reiterate the importance of DPI working with individual fishers on a case by case basis.

Probity concerns

- 1.56** Many inquiry participants questioned the integrity of aspects of the reform program and, in particular, whether the actions of some members of the industry amounted to insider trading. For example, Mr Paul Horan noted:

Allegedly many committee members who assisted DPI set up the reform have already obtained full quota of required shares in their specified endorsements, prior to general fisherman having this knowledge of the outcome of meetings, is this insider trading?⁴⁸

- 1.57** Mr Ted Allan referred to a small number of fishers who purchased shares and businesses because they had knowledge not available to other fishers:

It can only by [sic] assumed that some had inside information that the changes now proposed would happen and with this in mind perhaps planned to take the exit grants and sell the shares separately.⁴⁹

- 1.58** Further, Mr Mark Wanless felt that the whole reform process had been ‘mired in secrecy’:

We have just endured a first round of the ‘Preview Share Trading Market’. A closed door scheme devised by the department to feel out the mood of fishers and to get an idea of what it will cost the department to subsidise the ‘real’ Share Trading Market’. We, as fishermen, are to be given no indication of what the DPI learned from this! ... The entire process so far has been convoluted and mired in secrecy from the people whose lives are being affected.⁵⁰

- 1.59** Mr Howard Elliott, the probity advisor appointed by the department in June 2016 to advise on the integrity of the Adjustment Subsidy Program informed the committee that he was confident that the subsidised share trading scheme was robust and not challengeable from a probity perspective:⁵¹

⁴⁷ Submission 14, Associate Professor Kathryn Barclay, Michelle Voyer, Alistair McIlgorm & Nicole Mazur, pp 1 and 3.

⁴⁸ Submission 17, Mr Paul Horan, p 1.

⁴⁹ Submission 37, Mr Ted Allan, p 1.

⁵⁰ Submission 140, Mr Mark Wanless, p 2.

⁵¹ Evidence, Mr Howard Elliott, Probity Advisor Probity Advisors and Auditing Consultants, 14 December 2016, p 33.

‘Generally, a probity advisor acts as part of procurement/sale project team and works contemporaneously with project managers. The principal role of a probity advisor is to provide

One of our primary roles is to ensure that in these kind of processes there are the right controls and those controls go to transparency, auditability. We have had to look at the process end to end to make sure those controls are in place. There is a lot of audit information available at every stage of the market...So, yes we are comfortable that the probity controls are in place.⁵²

1.60 Reflecting on the specific issue of insider trading, Mr Elliott stated:

Insider trading ... requires information that is available inside the project team and closely related parties being made available to market participants who would not otherwise be able to get that information and then use that information to their advantage. There are a series of dots you have to join. The mitigation controls around that are that most of the information that the market participant could use is already available in the public domain and that is fundamentally how the market works.⁵³

1.61 The department advised that the 'NSW Government's intention to link shares to effort has been a matter of public knowledge for a number of years' and that 'all Structural Adjustment Review Committee meetings were open to the public and have had their minutes published on the internet'.⁵⁴

1.62 The Minister for Primary Industries refuted allegations of insider trading, arguing that those buying shares before the commencement of the subsidised share market are most likely paying a premium price:

When we go through the trading rounds we expect that there will be fishers who will need them who will be subsidised to buy those shares ... It would be a pretty courageous person who is gobbling up shares at the moment when they are at their highest price because of some of the panic selling and buying that is happening to then go to a market that is not going to be cleared on the highest price but it will be a case of matching bids.⁵⁵

1.63 Furthermore, Mr Howard explained that the only likely information a market participant could use to undertake insider trading was the 'outcome of the trial market, because that is the only one that had very specific information about what the prices might have been or could have been'. But such information was not directly available to those market participants because none of them belong to the evaluation panel.⁵⁶

probity advice and solutions throughout the transaction. A probity auditor works independently of a project team and is engaged to verify that processes followed during a procurement/sale are consistent with Government regulation and best practice principles, primarily after the fact'. See NSW Procurement Board Direction, PBD-2013-05, Engagement of Probity Advisors and Probity Auditors.

⁵² Evidence, Mr Elliott, 14 December 2016, p 33.

⁵³ Evidence, Mr Elliott, 14 December 2016, p 30.

⁵⁴ Answers to Supplementary Questions, Department of Primary Industries, 16 December 2016, Q5-7.

⁵⁵ Evidence, The Hon. Niall Blair MLC, 19 December 2016, p 12.

⁵⁶ Evidence, Mr Elliott, 14 December 2016, p 31.

Committee comment

- 1.64** Independent assurance that the subsidised share trading market satisfies probity requirements is essential. Any remaining concerns relating to the probity of the subsidised share trading process must be urgently resolved before the Business Adjustment Program can continue.
- 1.65** While the committee welcomes the appointment of a probity *advisor* to the project team, it is essential that the integrity of the subsidised share trading market is independently confirmed post event. We therefore recommend that a probity *auditor* be appointed by the department to scrutinise the Adjustment Subsidy Program upon its completion to ensure that all prescribed probity requirements have been adhered to. The probity auditor should be in place, ready to commence duties when the subsidised market closes in May/June 2017.
- 1.66** We also suggest the government appoint a separate probity auditor to review the role and involvement of the Structural Adjustment Review Committee in addressing potential conflicts of interest.

Recommendation 3

That the Minister for Primary Industries:

- appoint a probity auditor before June 2017 to scrutinise the implementation of the subsidised share trading market
 - appoint a separate probity auditor to review the role and involvement of the Structural Adjustment Review Committee in addressing potential conflicts of interest.
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The impact of reform on fishing co-operatives

- 1.67** In 2013 the department commissioned research to identify the potential impact of the Business Adjustment Program on the viability of New South Wales fishing co-operatives (co-ops). The report concluded, among other things, that the financial viability of the NSW fishing co-operatives generally reflected that of its members and the broader industry. Therefore, in the short term, the reforms were likely to reduce the profitability of some co-ops via the loss of members and throughput. However, if the reform achieved its objectives, the industry would be on a more profitable basis in the long term.⁵⁷
- 1.68** Representatives of the co-ops identified a series of impacts and concerns. These included:
- fears of the future viability and potential closure as a result of decreasing member numbers and reductions in throughput⁵⁸

⁵⁷ Department of Primary Industries, *NSW Fishing Co-operative Viability Study – Final Report*, 2014, pp 43-44.

⁵⁸ For example: Evidence, Ms Danielle Adams, General Manager, Clarence River Fishermen's Co-operative, 19 December 2016, p 22; Submission 21, Macleay River District Fishermen's Co-operative Ltd, p 1; Submission 91, NSW Fishermen's Cooperative Association, p 1.

- increased pressures on existing transport arrangements to market place, particularly for those in more remote areas⁵⁹
- the impact on local businesses and communities that support the work of the co-ops and the commercial fishing industry more generally⁶⁰, and
- for the consumer, increased prices of local seafood as supply is constricted.⁶¹

1.69 The evidence clearly indicated that the impact would vary for each individual co-op, as each had a different business structure and ability to value-add to product, or to diversify into other income generating opportunities. Therefore, whilst a genuine fear of closure was apparent for some businesses, others remained more confident as to their ability to adjust to the new operating environment.⁶²

1.70 The government has acknowledged the important role that the co-ops play and the potential disruption to profit levels as the reform takes pace. Assistance has been directed to the co-ops in the form of business development grants (up to \$30,000), and for those operating on Crown land, short term rent subsidies and standardised leasing arrangements.

1.71 The inquiry also heard that opportunity exists for co-ops to benefit from the roll-out of electronic catch reporting systems. While the implementation of these systems promises benefits for the industry as a whole, by installing these services at co-op sites, it provides an additional and highly sought after service that could be provided to co-op members.⁶³

Committee comment

1.72 Co-operatives play an important role for commercial fishers and the communities within which they operate. The committee notes the concerns identified by those representing co-ops and is of the opinion that government assistance is merited and should be commensurate with the risk and uncertainty facing these businesses, such that no co-op is forced to close as a consequence of the government's Business Adjustment Program.

1.73 The committee believes that the effects of the reform on the co-ops should continue to be monitored as part of a broader review of the reform process discussed in paragraph 1.98 and as per recommendation 9. The review would examine, among other things, the impact of the reforms on co-ops' viability. In the meantime the committee believes that the department should assess the level of assistance currently provided to fishing co-ops.

1.74 The committee is heartened by the efforts of many fishers to innovate and diversify in response to the reforms and the challenging economic condition facing the industry more generally. The committee understands that there has been no take up of the business

⁵⁹ For example: Evidence, Mr Robert Gauta, General Manager, Commercial Fishermen's Co-operative Limited, Newcastle, 12 December 2016, p 31; Evidence, Mr Lawrence McEnally, Fisherman and Chairman, Macleay River District Fishermen's Co-operative Limited, 14 December 2016, p 17.

⁶⁰ Evidence, Mr McEnally, 14 December 2016, p 16.

⁶¹ Evidence, Mr Gauta, 12 December 2016, p 33.

⁶² Evidence, Mr Gauta, 12 December 2016, p 33.

⁶³ Evidence, Mr Gauta, 12 December 2016, p 31; Evidence, The Hon Niall Blair MLC, 19 December 2016, p 15.

development grants to date. We therefore encourage all co-ops to take full advantage of the funding on offer. We are also fully supportive of plans underway to enhance catch recording systems (see recommendation 12) and suggest that the government initiate discussions with the co-ops, to determine how best they may be supported to roll out such systems.

Recommendation 4

That the NSW Department of Primary Industries assess the level of assistance provided to fishing co-operatives.

Additional assistance measures

- 1.75** In addition to the Adjustment Subsidy Program, several other assistance measures have been developed to aid the industry transition to the new arrangements.

Financial advice and support

- 1.76** A number of measures relating to financial advice and support have been implemented to support commercial fishers' transition to the new arrangements. This includes professional advice grants to enable fishers to access financial advice (up to \$1,000) and/or legal advice (up to \$1,000), or to engage an expert to act in the subsidised share trading market on their behalf. Applications for these grants close in 31 May 2018.⁶⁴
- 1.77** Access to low interest loans for use in the Adjustment Subsidy Program have also been offered to eligible fishers. Administered by the Rural Assistance Authority, eligible fishers could access up to \$80,000 at a fixed interest rate of 2.5 per cent/annum. Applications for these loans closed on 30 January 2017 and the department has advised that over 100 applications have been made to access this support.⁶⁵
- 1.78** Some inquiry participants criticised the low interest loans program. For example, Ms Limon, felt that providing low interest loans with 'lax borrowing criteria' was 'setting fishers up to fail'.⁶⁶ She also referred to advice from the Structural Adjustment Review Committee (SARC) which stated "low interest rate loans' would not be in the benefit of Active fishers as it inflates the price of shares and creates a debt trap".⁶⁷ Similarly, Ms Laila Christensen stated that the reform was 'forcing debt' onto an already struggling industry.⁶⁸
- 1.79** Others noted barriers to accessing the loans. For example, Mr Mark Wanless stated that he was unable to access the loan because he had a second job.⁶⁹

⁶⁴ Rural Assistance Authority, Commercial Fisheries Business Adjustment Program (Professional Advice), Scheme Information and Guidelines, August 2016, p 2.

⁶⁵ Answers to Supplementary Questions, Department of Primary Industries, 10 January 2017, p 8.

⁶⁶ Submission 117, Ms Tisha Limon, p 1.

⁶⁷ Submission 117, Ms Tisha Limon, p 3.

⁶⁸ Submission 72, Ms Laila Christensen, p 2.

⁶⁹ Submission 140, Mr Mark Wanless, p 3.

- 1.80** A number of other financial supports have also been provided to the industry including:
- retraining grants of \$10,000 to assist those fishers exiting the industry
 - delaying increases to management fees until 2018 after which, any increases will be capped at a set amount for a five-year period, as well as the waiver of share transfer fees until the completion of the Adjustment Subsidy Program.

Engagement of the Small Business Commissioner

- 1.81** The department has been exploring the potential role of the Small Business Commissioner to support small fishing businesses through the adjustment program.⁷⁰ Details of the Commissioner's role are currently being worked through, however the committee understands that responsibilities may include:
- the development of a program that will assist fishers with the registration process for the subsidised share trading market including helping fishers understand their immediate information needs,
 - in the medium term, assisting and advocating for fishers if they feel they have been treated unfairly in the subsidised share trading market or future share allocation through the Independent Allocation Panel process, and
 - in the longer term, delivering a program to help fishers start to review and alter their business structure to work under a quota management regime, including the provision of general small business advice.⁷¹

Committee comment

- 1.82** The committee is determined to ensure that no small or medium fishing business is unfairly left behind by the reform process and that the Minister and the department support those affected accordingly.
- 1.83** We welcome the Minister's commitment to work with individual fishing businesses on a case by case basis and consider this of utmost importance.
- 1.84** The committee welcomes the involvement of the Small Business Commissioner and considers this to be a valuable addition to the reform process. We therefore recommend that arrangements be confirmed by April 2017 and that details regarding the Commissioner's role and responsibilities be published widely so that the industry has sufficient time to make use of these services.
- 1.85** The committee notes that applications for professional advice grants are due to close in April 2018 but we suggest that this be extended to 2020 to ensure that fishing businesses can continue to access financial advice and support as the reform process takes place and the outcomes for individual fishers become more certain. The committee also recognises the

⁷⁰ Evidence, The Hon Niall Blair MLC, 19 December 2016, p 3.

⁷¹ Correspondence from Mr Dave McPherson, Group Director, Commercial Fisheries and Aquaculture, Department of Primary Industries to Ms Beverly Duffy, Clerk Assistant, Legislative Council, 15 February 2017.

complexity of the reform and the costs associated with obtaining business specific financial and trading/legal advice. In this regard we recommend increasing the grants available for both to \$2,000.

- 1.86** The committee notes that for those fishers who leave the industry, retraining assistance may not be sufficient for them to regain employment. The department should consider individual case management in these circumstances.
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Recommendation 5

That the NSW Department of Primary Industries confirm arrangements for the involvement of the Small Business Commissioner by April 2017 and ensure that these arrangements are communicated to the commercial fishing industry.

Recommendation 6

That the NSW Department of Primary Industries extend the period for commercial fishers to apply for Financial Advice Grants from 2018 until 2020 and increase the grant limit for both legal and financial advice to \$2,000.

Recommendation 7

That the Department of Primary Industries ensure that individual case management is offered to fishers who leave the industry and for whom retraining assistance is not sufficient to regain employment.

Other reform options

- 1.87** A number of inquiry participants proposed their own adjustments to the Business Adjustment Program. These include: buying out latent shares before switching on the linkages, staircasing the quota arrangements; allocating shares; and abandoning the reform program altogether.

Addressing latency

- 1.88** Numerous inquiry participants called on the government to address the historic over-allocation of shares by buying up the latent shares before implementing the share transfer process. The Minister rejected these calls:

... we cannot buy out the latent effort first. Without linkage to catch or effort, nothing would stop fishers using the buyout funds to purchase the other fishing businesses, which is just repeating the mistakes of past buyouts. It has not worked before, it will not work now.⁷²

⁷² Evidence, The Hon Niall Blair MLC, 19 December 2016, p 2.

Staircasing the reforms

1.89 Mr Lawrence McEnally, fisher and Chairman of the Macleay River District Fishermans Co-op, proposed a ‘staircased’ approach towards full implementation of the quota arrangements to enable the industry more time to adjust. This would involve ‘marrying’ historic catch, with new quota requirements over a defined period of time, with the historic component diminishing over time:

If you want to come up with a formula that helps us as a business, you could stratify it. You could mix 50 per cent of my historic catch with 50 per cent of the quota for this year. Next year my historic catch drops 10, the quota goes up 10 until you get to the point you want, but don’t dump me in it next year...We could have done this is a nice stratified five-year plan that would have let us get to the goal without all this heartbreak that is happening right now.⁷³

1.90 The Minister stated that there were complexities associated with a staged approach towards achievement of minimum share holdings, however he was committed to considering options which may allow the industry more time to plan and adjust.⁷⁴

Government allocation of shares

1.91 The Hon David Mehan, MP, Member for The Entrance, called on the government to allocate the additional shares fishers need on the proviso that those shares cannot be traded and revert to the state when the fisher exits the industry.⁷⁵

1.92 In response the Minister advised that this approach ‘is not feasible’ as ‘the NSW Government does not hold any surplus shares and cannot issue new shares’. Furthermore, the NSW Government cannot amend the rules for the subsidised share trading market, without:

- degrading the value of existing shares which could trigger claims for compensation
- affecting those fishers who have already engaged in the share market based on publically released commitments about how the market will operate
- impacting participation in the subsidised share trading market.⁷⁶

Abandoning and delaying the reforms

1.93 Some inquiry participants called for the reforms to be abandoned or further delayed. For example, Mr Claudio Zarella, a commercial fisherman stated, ‘I am requesting your support in stopping this unjust reform’;⁷⁷ Mr Dane Van Der Neut, President of the Wild Caught

⁷³ Evidence, Mr McEnally, pp 12 - 13.

⁷⁴ Evidence, The Hon Niall Blair MLC, 19 December 2016, p 3.

⁷⁵ Correspondence to The Hon Robert Brown, Chair, from The Hon David Mehan, Member for The Entrance, Inquiry into commercial fishing in New South Wales, 9 January 2017, p 1.

⁷⁶ Correspondence, The Hon Niall Blair MLC, The Minister for Primary Industries, to The Hon Robert Brown, 3 February 2017.

⁷⁷ Submission 3, Mr Claudio Zarrella, p 1.

Fishers Coalition stated 'I think that the reforms need to be stopped completely'⁷⁸; and Mr Benjamin Markwell, an estuary fisher with 20 years' experience contended, 'I am still hoping reform gets crushed in all forms'.⁷⁹ Mr Mehan also called for the Business Adjustment Program to be halted and stated that the Government should 'guarantee active fishers that they will be able to continue to work'.⁸⁰

1.94 In his opening address at the committee's final hearing, the Minister noted support for moving ahead with the reforms:

Mr Malcolm Poole said, "This reform has been in the pipeline for decades and we need it now." Ms Kate Barclay said, "You need to finish this and move on with certainty." Mr Robert Gault said, "We are where we are, we can't unwind this." Mr Brian Skepper said, "The restructure must proceed." Professor Bob Kearney said, "The reforms should go ahead." Mr Ian Cartwright said, "Arrangements are untenable, New South Wales fisheries are very vulnerable and without reform I really worry fishing communities will go under." And Mr Nick Raynes said, "We have had great results in the Commonwealth."⁸¹

Committee comment

1.95 For over 20 years successive governments have sought to address the challenges facing the commercial fishing sector in New South Wales. With the exception of two of the 24 fishing classes, there is little to show for these attempts. Industry is undoubtedly frustrated by the constant changes to the direction of reform and many would prefer things to stay as they are. But in this respect, the committee agrees with the Minister that 'business as usual' is not an option. Further delay to the implementation of the Business Adjustment Program will only exacerbate uncertainty and further threaten the precarious state of the sector.

1.96 The committee therefore recommends that the Department of Primary Industries continues to implement the Business Adjustment Program, as per the published timeframes, subject to accepting the recommendations in this report, which are designed to address the shortcomings of the reform program identified during the inquiry.

1.97 The committee notes the Minister's acknowledgment of the serious challenges with the program and in particular the way the department has communicated with the industry. In light of the Minister's acknowledgment the committee is of the view that further assessment of options and strategies to mitigate adverse impacts on the industry and their communities should be expedited. The committee also believes that further work needs to be undertaken on strategies to buy out latent effort and to ensure those receiving buy out packages cannot re-enter the industry for a determined period.

1.98 In response to the very real concerns presented to this inquiry, there is a need to maintain a watching brief on the progress of the reforms. We therefore recommend that the government require the NSW Commercial Fishing Advisory Council (CommFish), in

⁷⁸ Evidence, Mr Dane Van Der Neut, President, Wild Caught Fishers Coalition, 14 December 2016, p 21.

⁷⁹ Submission 81, Mr Benjamin Markwell, p 4.

⁸⁰ Submission 90, The Hon David Mehan MP, Member for The Entrance, p 5.

⁸¹ Evidence, The Hon Niall Blair MLC, 19 December 2016, p 3.

consultation with the NSW Fishermen's Co-operative Association, to report to Parliament on the progress of the commercial fishing reform process during the reform period, on an annual basis.

Recommendation 8

That the NSW Department of Primary Industries continue to implement the Business Adjustment Program in accordance with the published timeframes.

Recommendation 9

That the NSW Government require the NSW Commercial Fishing Advisory Council (CommFish), in consultation with NSW Fishermen's Co-operative Association, to report to Parliament on the progress of the commercial fishing reform process during the reform period, on an annual basis.

Chapter 2 Related industry reform issues

This chapter examines various issues raised during the inquiry concerning the regulatory framework for commercial fishing in New South Wales and the government's reform program. This includes: stock assessment and compliance; the social impact of industry reform; communication and consultation mechanisms; Aboriginal commercial fishing; and country of origin labelling.

Stock assessment and compliance

- 2.1** The accurate assessment of fishery stocks is fundamental to a successful fishery industry. Accurate assessments allow regulators to set appropriate targets to ensure fishing stocks are sustainable and to allow fishers to make informed decisions about their businesses. And ensuring fishers adhere to the regulatory requirements is also an integral aspect of well managed and sustainable fisheries.
- 2.2** The Department of Primary Industries (DPI) suggested that the Business Adjustment Program will improve the accuracy of stock assessment and compliance levels because it places a greater emphasis on output controls (quota) rather than input controls (fishing effort), as a means of regulating the industry. Compared with quotas, input controls require complicated and cumbersome regulations that are difficult for fishers to comply with and for regulators to enforce.⁸²
- 2.3** The following section looks at concerns raised by inquiry participants about the accuracy of stock assessments in New South Wales and the effectiveness of the compliance regime.

Stock assessments

- 2.4** The assessment of fish stocks in commercial fisheries is based on two main types of data: catch and effort data - as recorded by fishers – and scientific data, which includes surveys of fish stock or other types of marine research. DPI's assessment of most fish stocks in New South Wales is based on catch per unit effort (CPUE) data provided by fishers.⁸³ DPI conducts annual resource assessments on approximately 117 species.⁸⁴
- 2.5** Inquiry stakeholders expressed concerns about the quality of the data underpinning stock assessments. During his recent work with the Structural Adjustment Review Committee (SARC), the former Chair, Mr Ian Cartwright was told by fishers themselves that their catch data were not necessarily accurate:

⁸² Evidence, Mr Scott Hansen, Director General, Department of Primary Industries,, 19 December 2016, p 10.

⁸³ Ian Cartwright, Mary Lack, Sevaly Sen *NSW Commercial Fisheries Reform, Structural Adjustment Review Committee, Final Share Linkage Recommendations*, 30 September 2015, p 2

⁸⁴ The most recent report is for 2014-15. Department of Primary Industries, *Status of fisheries resources in NSW 2014-15, Summary*, January 2017, p 1.

‘... they would say: “Do not take catch history into account because you cannot rely on it.” But the problem is that the same data is used to try and assess stocks.⁸⁵

- 2.6** Mr Cartwright and his SARC colleagues documented concerns about the accuracy of catch data in their 2015 report:

DPI, working group deliberations, submissions and feedback have acknowledged that existing data provided to the NSW Government through logbook returns have high, but unknown, levels of misreported catches and understate days fished ... In the absence of any other comprehensive data set, the SARC has relied on the data provided by the Department in developing its advice on share linkages.⁸⁶

Cronulla fisheries research centre

- 2.7** In addition to concerns about the reliability of catch data, inquiry participants questioned the scientific research underpinning stock assessments. Malcolm Poole, Fishing Safety Officer, Recreational Fishing Association, suggested that the loss of scientific expertise accompanying the closure of the Cronulla Fisheries Research Centre of Excellence has had a detrimental impact on our understanding of fish stocks:

We culled off Cronulla ... we do not have the capacity anymore to do sound science on understanding fish stocks I think we have lost a lot of intellectual property ... We had a lot of people at Cronulla who had the drive and the sense to look at things in a logical manner ... I learnt so much from those people in their presentations and their knowledge around marine biology.⁸⁷

- 2.8** The former DPI Chief Scientist, Professor Steven Kennelly also considered that the closure of Cronulla had a deleterious impact on research:

In terms of the science available and the scientific research underpinning fisheries management, that has been fairly well documented as being reduced somewhat since they closed the Cronulla fisheries laboratory down. There was quite a loss of expertise when that occurred; it has not really been replaced.⁸⁸

- 2.9** DPI advised that the department’s Wild Fishers team had lost eight scientists as a consequence of the closure of Cronulla, but that the short term reduction in the group's capacity had been resolved through the recruitment of staff with broad experience in fisheries resource assessment:

The Department has full confidence in the resource assessment process. Metrics regarding the performance of the resource assessment group since the relocation from

⁸⁵ Evidence, Mr Ian Cartwright, Member, Structural Adjustment Review Committee, 12 December 2016, p 21.

⁸⁶ Ian Cartwright, Mary Lack, Sevaly Sen, *NSW Commercial Fisheries Reform, Structural Adjustment Review Committee, Final Share Linkage Recommendations*, 30 September 2015, p 2.

⁸⁷ Evidence, Mr Malcolm Poole, Fishing Safety Officer, Recreational Fishing Association, 12 December 2016, p 3.

⁸⁸ Evidence, Professor Steven Kennelly, Director, IC Independent Consulting (ex DPI Chief Scientist), 14 December 2016, p 52.

Cronulla are all improving with increases in peer reviews output, increases in funding and a proven track record in meeting all project related milestones.⁸⁹

- 2.10** DPI advised that, of the 138 staff who worked at Cronulla Fisheries Research Centre, 117 worked for DPI Fisheries. This included scientists, technical staff, administrative support, licensing staff and fisheries managers. Approximately 50 per cent of these DPI staff relocated to new locations following the closure of the Cronulla Fisheries Research Centre.⁹⁰

The impact of recreational fishing

- 2.11** Estimating the impact of recreational fishing on fish stocks is a particular challenge, as noted by Professor Steven Kennelly, former DPI chief scientist:

... any attempt to try to manage things using total allowable catches and to try to do things so that you can maintain the sustainability of those stocks is going to be fraught with problems where you have a million recreational anglers out there waiting to catch those fish, those same species ... You need to take account of all the fishing pressure that is occurring on those stocks, not just, in many cases, one relatively minor component.⁹¹

- 2.12** The 2012 Independent Review of NSW Commercial Fisheries Policy, Management and Administration also noted the inordinate impact of recreational fishing on some species:

The recreational sector is the greater harvester of a significant number of species-yet fisheries assessments in NSW are almost completely focussed on the commercial sector. ...The Review Team is pleased to note that the Recreational Fishing trust has funded a range of scientific projects on key species in recent years ... and has committed funding for a state-wide recreational fishing survey commencing in 2012.⁹²

- 2.13** While Mr Allan Hansard, CEO of the Australian Fishing Trade Association, disputed the notion of a recreational fishing 'sponge' he told the committee that the recreational fishing trust would be prepared to help fund the cost of an environmental impact statement as long as other stakeholders were prepared to fund their share of the relevant costs.⁹³

- 2.14** However, the committee understands that the Recreational Fishing Trust has already agreed to fund a comprehensive assessment of recreational fishing which is due to commence in September 2017. The project aims to provide a cost effective method to allow continuous monitoring of recreational fisheries instead of relying on spasmodic and expensive surveys to estimate recreational fishing harvests.⁹⁴

⁸⁹ Answers to supplementary questions, Department of Primary Industries 10 January 2017, pp 2-3.

⁹⁰ Answers to supplementary questions, Department of Primary Industries, 10 January 2017, p 1.

⁹¹ Evidence, Professor Kennelly, 14 December, 2016, p 54.

⁹² Richard Stevens, Ian Cartwright, Peter Neville, *Independent Review of NSW Commercial Fisheries Policy, Management and Administration*, March 2012, p 6.

⁹³ Evidence, Mr Allan Hansard, Australian Fishing Trade Association, 14 December 2016, p 60.

⁹⁴ Fisheries NSW Research Proposal: *Integrated Monitoring Program: A comprehensive assessment of recreational fishing*, undated, provided by Dr Michael Lowry, Principal Research Scientist: Research Leader (Fisheries Resource Assessment), NSW Department of Industry.

Status of Fisheries report 2014-15

- 2.15** Each year the department conducts an assessment of the state of the more than 100 marine and estuarine fish populations that are harvested by commercial and recreational fisheries managed by the NSW Government. According to the latest Status of Fisheries report, 72 species are either ‘undefined’ or ‘uncertain’. A fish species with an ‘undefined’ or ‘uncertain’ exploitation status is one for which there is inadequate or insufficient data upon which to base a reliable assessment of the quantity of that species.⁹⁵
- 2.16** DPI confirmed that there had been an increase in the proportion of species that fell into the uncertain or undefined categories over the last five years, but that ‘Many of the species that are classified as undefined do not have significant levels of commercial or recreational harvest associated with them.’ When asked what it was doing to address the situation, the department advised that: ‘Transition to the Status of Australian Fish Stocks framework will facilitate a more effective focus on assessment of priority species and will provide a consistent approach to reporting nationally.’⁹⁶ (*This framework assesses the biological sustainability of a broad range of wild-caught fish stocks against a nationally agreed framework*).

McKoy and Stokes review

- 2.17** Notwithstanding its ‘full confidence’ in the resource assessment process, the department outlined several ways it was seeking to improve assessments, including by transitioning to the Status of Australian Fish Stocks framework and by commissioning a review in 2016 of the resource assessment framework by two fishery scientists, John McKoy and Kevin Stokes.⁹⁷
- 2.18** According to the Deputy Director General of DPI fisheries, Dr Geoffrey Allan, this review was proactively commissioned to ensure DPI were ‘ahead of the game’ in transitioning to the national stock assessment framework, and ensuring the management outcomes from stock assessments were appropriate, rather than as a consequence of any particular concerns about the quality of stock assessment.⁹⁸ The Director General affirmed that the review was not commissioned due to any specific concerns about the system:

We went outside and got independent assessment on this because we continue to challenge ourselves to try to lift the bar in this area. Basically what the report has found ... is the fact that whilst we can take comfort in the fact that we have been using a gold-standard approach for the stock assessment, the tool does not provide for the management decisions and management outcomes that are vitally important in terms of fisheries management.⁹⁹

- 2.19** McKoy and Stokes found that while the design of the resource assessment system in New South Wales was adequate, its implementation was hampered by several factors, including a

⁹⁵ Department of Primary Industries, *Status of fisheries resources in NSW 2014-15, Summary*, January 2017, p 1.

⁹⁶ Answers to supplementary questions, Department of Primary Industries, 10 January 2017, pp 3-4.

⁹⁷ Answers to supplementary questions, Department of Primary Industries, 10 January 2017, p 3.

⁹⁸ Evidence, Dr Geoffrey Allan, Deputy Director General, Department of Primary Industries, 12 December 2016, p 8.

⁹⁹ Evidence, Mr Scott Hansen, Director General, Department of Primary Industries 12 December 2016, p 8.

lack of clear linkage between science and management; insufficient quality assurance; engagement and consultation; as well as data limitations.¹⁰⁰ Most relevantly, the reviewers concluded that: ‘The capacity within the current resource assessment framework to meet additional responsibilities emerging due to structural reforms is limited’.¹⁰¹

2.20 Professor Kennelly also noted the not insignificant concerns about the department’s assessment capacity documented in the McKoy and Stokes review:

As to the current arrangements for the assessment of fisheries by the Department of Primary Industries, Fisheries Resources Assessment Unit, there was a recent review done of that by McCoy and Stokes, who are pretty good operators, and that document, which you should have a copy of, is fairly pointed in criticising the availability of the science, et cetera, and the ability of the department to do the fisheries assessments that are required to inform the current structuralist adjustment program.¹⁰²

2.21 The department advised the committee that it intended to implement the recommendations of the McKoy and Stokes report to ‘ensure it is ready to deliver the necessary science and research to effectively input to the new management arrangements arising from the Business Adjustment Program’.¹⁰³

Compliance

2.22 An effective compliance program is central to successful fisheries management. However several inquiry participants, including former SARC Chair, Mr Ian Cartwright, noted that poor compliance was a significant issue in New South Wales:

There is very poor compliance. It is probably the worst compliance I have had reported in Australia in coastal fishery. Seventy-five per cent of the licences have either had a written warning or some form of fine or other fining against them in terms of non-compliance with regulations.¹⁰⁴

2.23 Mr Cartwright and his colleagues found that:

... a significant level of illegal fishing is occurring in some fisheries, e.g. mud crab and eel fisheries. Further, the SARC received feedback from fishers that they were concerned that: Fishing Business owners needed to be more accountable for the actions of nominated fishers; the penalties for breaches of regulation were inadequate and that currently the benefits of fishing illegally outweighed the risk of being caught; and penalties should be increased, particularly for repeat offenders. The SARC

¹⁰⁰ John McKoy and Kevin Stokes, *Review of the current NSW Resource Assessment Framework and the performance of the arrangements employed to assess NSW fisheries*, May 2016, p 3.

¹⁰¹ John McKoy and Kevin Stokes, *Review of the current NSW Resource Assessment Framework and the performance of the arrangements employed to assess NSW fisheries*, May 2016, p 4.

¹⁰² Evidence, Professor Kennelly, 14 December 2017, p 52.

¹⁰³ Submission 79, NSW Department of Primary Industries, p 7.

¹⁰⁴ Evidence, Mr Cartwright, 12 December 2016, p 21.

recommends that the Government consider the need for improved accountability and increased penalties.¹⁰⁵

- 2.24** Mr Lawrence McEnally, commercial fisherman and Chair of the Macleay River Fisherman's Co-operative, told the committee that he had agreed to purchase shares from a particular licence but there were problems with the transfer because the licence owner hadn't paid any fees for 10 years:

He owed more than \$15,000 in back fees yet the licence and shares were still valid. In the real world this licence would have been cancelled long ago. There are no words to cover this. The question is how many other licences are like this and how much money is owing to the DPI.¹⁰⁶

- 2.25** Mr McEnally questioned the department's commitment to cleaning up the industry, noting that there are quite a few fishers with more than 30 convictions who should be removed from the industry: 'The Minister has the power to do this but his public servants are very short on courage'.¹⁰⁷ Mr McEnally stated:

We have got one man at a co-op near me with 102 convictions in court who still has his licence and who is still fishing ... We have asked the Minister to get rid of these people; he has done nothing to do that.¹⁰⁸

- 2.26** However, the Wild Caught Fishers Coalition disputed estimates that more than three quarters of fishers are non-compliant: 'This needs to be challenged. We believe that this is gross misrepresentation of the true picture. What was the differentiation of major and minor offences? There is evidence to dispute this view.'¹⁰⁹

- 2.27** As the report noted, an effective compliance system is a critical prerequisite of a reformed fishing industry:

Of primary importance is the need to ensure that the financial investment fishers are being expected to make to gain a stronger and more valuable access right is not undermined by an ineffective and costly compliance and monitoring scheme.¹¹⁰

- 2.28** Poor compliance is also an issue in the recreational fishing sector. Noting the reputational damage to the sector caused by recreational fishers engaging in the black market, Mr Allan Hansard called for action: 'I would ask the Government to put all its power behind laws to stamp it out. It is not right. Whatever needs to be done to stamp that out we would support'.¹¹¹

¹⁰⁵ Ian Cartwright, Mary Lack, Sevaly Sen, *NSW Commercial Fisheries Reform, Structural Adjustment Review Committee, Final Share Linkage Recommendations*, 30 September 2015, p 10.

¹⁰⁶ Submission 20, Mr Lawrence McEnally, p 5.

¹⁰⁷ Submission 20, Mr Lawrence McEnally, p 7.

¹⁰⁸ Evidence, Mr Lawrence McEnally, Chairman, Macleay River District Fishermen's Co-operative Limited, 14 December, 2016, p 15.

¹⁰⁹ Answers to questions on notice, Wild Caught Fishers Coalition, 10 January 2017, question 16, p 33.

¹¹⁰ Ian Cartwright, Mary Lack, Sevaly Sen, *NSW Commercial Fisheries Reform, Structural Adjustment Review Committee, Final Share Linkage Recommendations*, 30 September 2015, p 10.

¹¹¹ Evidence, Mr Hansard, 14 December 2016, p 60.

2.29 The Minister for Primary Industries, the Hon Niall Blair MLC, acknowledged the need to address poor compliance:

We know it is broken when there are over 700 fishers in New South Wales that have had some sort of breach of the rules against their name. That does not tell me we have a good compliance framework because the number is up; it tells us that the system and the rules are not right. It is about coming up with a realistic parameter where the fishers can be efficient and do what they do using innovation and new ways rather than having to interpret a three-page manual as they are firing a net.¹¹²

2.30 The department was confident that the emphasis on ‘output’ controls proposed as part of the Business Adjustment Program, rather than the more difficult to enforce ‘input’ controls would reduce compliance issues. Indeed, DPI Director General, Mr Scott Hansen, suggested that the reforms provide a unique opportunity to improve compliance systems:

...the department also gets the unique opportunity to relook at how it does compliance and to try to be more efficient and therefore reduce costs to the sector as well. As you can imagine, three pages worth of regulations for nets as an input control is a lot more expensive to regulate and to ensure on water compliance than if you move that to measure an output.¹¹³

2.31 The 2012 Independent Review of NSW commercial fisheries also noted that industry reform will improve compliance, largely because fishers’ rights will be better defined:

when rights become better defined there will be a greater incentive to ‘do the right thing’... This will help eliminate the problem of fishers openly defying regulations by using excess fishing gear due to an inability to adjust businesses by investing in additional rights.¹¹⁴

Penalty demerit system

2.32 Notwithstanding the potential improvements to compliance facilitated by the reforms, DPI told the committee it would consider a range of options to deal with fishers who continue to flout the rules, including a demerit points system, such that operates in South Australia. DPI said that input from the industry would be sought on the following features of any demerit system developed for New South Wales:

- the types of offences that will attract demerit points
- the differences between minor and major offences
- how it will apply to different fisheries
- the impacts and ramifications of multiple demerit points
- the most appropriate legal mechanisms to implement the scheme.¹¹⁵

¹¹² Evidence, The Hon Niall Blair MLC, Minister for Primary Industries, 19 December 2016, p 11.

¹¹³ Evidence, Mr Hansen, 19 December 2016, p 11.

¹¹⁴ Richard Stevens, Ian Cartwright, Peter Neville, *Independent Review of NSW Commercial Fisheries Policy, Management and Administration*, March 2012, p 65.

¹¹⁵ Answers to questions on notice, Department of Primary Industries, 10 January 2017, p 3.

- 2.33** A demerit system was also proposed by the 2012 Independent Review of NSW commercial fisheries, noting that Tasmania and South Australia have such schemes already:

The Review Team sees great merit in introducing such a scheme in NSW and recommends that the necessary legislation be developed, drawing on the experiences of Tasmania and South Australia. For the life of points, the Review Team recommends that a period of at least seven years is appropriate, given the high degree of difficulty in detecting/proving fisheries offences.¹¹⁶

Improving compliance via technology

- 2.34** At present, most fishers use paper-based systems to record their catch and effort data. This is cumbersome and time consuming for fishers and regulators, and compromises the accuracy of stock assessments. Mr Cartwright advised the committee that most states in Australia have introduced e-technology to improve stock assessments and compliance:

The evolution of smart phones and software for catch-recording has the potential to make many improvements, which would be of benefit to both the fishery as a whole as well individual fishers.¹¹⁷

- 2.35** South Australia, for example, is in the process of replacing inefficient paper based systems with e-reporting to all of its fisheries over the next three years:

Industry in that state considers that e-reporting adds value to the business (all data available to fishers, selected data available to the Fisheries Department), removes data entry problems and increases accuracy, and improves compliance.¹¹⁸

- 2.36** Mr Cartwright is confident that harnessing new technology will improve compliance ‘out of sight’:

At most of these inshore fisheries there is phone coverage and people are now able to put in live data through iPads and others. The beauty of that is if you are a compliance officer and you are getting live feeds from the fishermen at the boat ramp and he just puts in 40 kilos of mulloway and he is only around the corner in a squad car or compliance car, he can go to the ramp and check instantly.¹¹⁹

- 2.37** McKoy and Stokes also recommended that the government pursue options for electronic collection of catch and effort data at point of landing.¹²⁰

- 2.38** The Minister acknowledged that catch recording systems in New South Wales were ineffective, and that new technology would improve compliance:

I have heard from many fishers that the catch recording systems have been less than effective. I would welcome insights into measurements such as on-line catch and

¹¹⁶ Richard Stevens, Ian Cartwright, Peter Neville, *Independent Review of NSW Commercial Fisheries Policy, Management and Administration*, March 2012, p 41.

¹¹⁷ Answer to questions on notice, Mr Ian Cartwright and Ms Sevaly Sen, 9 January 2017, p 1.

¹¹⁸ Answer to questions on notice, Mr Cartwright and Ms Sen, p 1.

¹¹⁹ Evidence, Mr Cartwright, 12 December 2016, p 27.

¹²⁰ John McKoy and Kevin Stokes, *Review of the current NSW Resource Assessment Framework and the performance of the arrangements employed to assess NSW fisheries*, May 2016, p 4.

reporting which will mean less paperwork for industry and real-time reporting which will also help stock assessment and compliance efforts.¹²¹

Committee comment

- 2.39** Reliable data about current and projected fish stocks is critical to both fishers and regulators. Fishers need accurate data to make informed decisions about their businesses, and regulators need this information to put in place rules to ensure a profitable and sustainable fishing industry. This is all the more important in the current context as the government seeks to introduce and seek support for wide-ranging structural reform.
- 2.40** The committee notes with concern the increase in fish species with an ‘undefined’ or ‘uncertain’ exploitation status, and the intermittency of comprehensive fisheries assessments in recent years.
- 2.41** While the department expressed confidence in its ‘gold standard’ stock assessment system, the McKoy and Stokes review, as well as evidence to our committee, suggested that there is ample room for improvement. The committee welcomes the department’s commitment to implementing the recommendations of the McKoy and Stokes review, but we do not know precisely when and how the government plans to implement these recommendations. We also note the support expressed by inquiry participants for a penalty demerit system, as recommended in the 2012 Independent Review of NSW Commercial Fisheries.
- 2.42** Accordingly, we suggest that the Government Response to our report should include a detailed implementation timeframe for each of the recommendations of the 2016 McKoy and Stokes review. Furthermore, that the department complete its consultation with industry regarding a demerit scheme with a view to introducing such a scheme by the end of 2018. And finally, we urge the department to prioritise the introduction of electronic catch recording systems, including opportunities to install such systems in fishing co-operatives.

Recommendation 10

That the NSW Government ensure that its response to the committee’s report includes a detailed timeframe for the implementation of each of the recommendations of the 2016 *Review of the current NSW Resource Assessment Framework* by John McKoy and Kevin Stokes.

Recommendation 11

That the NSW Department of Primary Industries introduce a penalty demerit scheme by the end of 2018.

Recommendation 12

That the NSW Department of Primary Industries prioritise the introduction of electronic catch recording systems, including opportunities to install such systems in fishing co-operatives.

¹²¹ Evidence, The Hon Niall Blair MLC, 19 December 2016, p 3.

The social impact of industry reform

Should a social impact assessment be conducted?

2.43 The significant social and emotional impact of the reform process on commercial fishers, particularly smaller operators, was a major theme in evidence and submissions to the inquiry.

2.44 Associate Professor Barclay, from the School of International Studies, UTS, told the committee about a study she led from 2014-2016 to evaluate the contribution of professional fisheries to New South Wales coastal communities. The project involved interviews with 160 fishers and their families, co-ops and other associated businesses. While the study was not designed to investigate the Business Adjustment Program, this was a major theme raised by the interviewees.

2.45 Associate Professor Barclay and her researchers found that years of ‘regulatory uncertainty’ had contributed to deep divisions within the commercial fishing community. With regards to the Business Adjustment Program, Associate Professor Barclay and her team heard:

... expressions of fear, anger, despair, confusion and extreme stress and anxiety ... Many of the problems associated with the current reform program are exacerbated by the fact that it comes on top of two decades of other regulatory upheavals including the introduction of recreational fishing havens, marine parks, and restructures of some fisheries.¹²²

2.46 The researchers identified two main categories of professional fishers: Group A - comprising larger-scale, specialist fishers, and Group B - smaller scale, largely inshore, multi-method, multi-species fishers, many of whom were not interested in expanding their businesses. According to Associate Professor Barclay, understanding the cultural differences between these two groups is particularly relevant to the Business Adjustment Program because both groups have very different responses to the program.¹²³

2.47 Dr Tanya King, a maritime anthropologist and Senior Lecturer at Deakin University who has worked with the commercial fishing industry for more than 20 years, commented on the impact of regulatory changes over the past several years on commercial fishers’ well being:

One of the big issues is that people do not feel respected. You can hear that in the testimonies. They do not feel like they have been heard. They do not feel like they have been taken seriously or that their generational knowledge has been taken seriously. That hurts people. It hurts them. It makes them feel really bad.¹²⁴

2.48 Submissions and evidence to the committee underline Dr King’s and Associate Professor Barclay’s findings. Commercial fisher, Mr Les Cheers, whose family has fished since the 1930s,

¹²² Submission 14, Associate Professor Kathryn Barclay, Michelle Voyer, Alistair McIlgorm and Nicole Mazur pp 1-2.

¹²³ Submission 14, Associate Professor Kathryn Barclay, Michelle Voyer, Alistair McIlgorm and Nicole Mazur, p 2.

¹²⁴ Evidence, Dr Tanya King, Senior Lecturer in Anthropology Deakin University, 14 December 2016, p 6.

said he was unsure whether his three sons would be able to continue fishing as a consequence of the reforms:

I have three sons that love the Fishing Industry. They are fortunate that they have the invaluable knowledge of their fishing family before them, but unfortunately if this reform continues the way it has started they will not be able to stay in the industry they love.¹²⁵

2.49 Mr Peter Christensen, who has fished for almost 40 years asked: ‘What am I to do if I can no longer fish as I have always done? It is all that I have known and all I can do ... it is my life.’¹²⁶

2.50 The wife of an estuary fisher with five generations of knowledge told the committee that the reforms were having a huge impact on fishers and their families:

If the weather is not enough to contend with fishermen have also got the added worry of the Marine parks and lake closures, Fees & licenses increasing, Quotas and restrictions and now the huge stress of the Reform ... I know there are so many families feeling the same way we are. There are so many children watching their dads upset and sick with worry.¹²⁷

2.51 While not commenting on the merits or otherwise of the Business Adjustment Program, Associate Professor urged the government to address the uncertainty faced by the fishing community over the past several years:

it is important for the Government to end the uncertainty as soon as possible and give the industry a period of stability so they can recover and build strong foundations for moving forward.¹²⁸

2.52 Notwithstanding her suggestion to expedite the completion of the Business Adjustment Program, Associate Professor Barclay also recommended that the government consider undertaking a Social Impact Assessment of the program as a matter of urgency:

We are aware that this recommendation runs counter to our first recommendation about not prolonging the uncertainty, but that it is also important that significant policy shifts such as this be based on sound understanding of the social impacts, and revised as necessary.¹²⁹

¹²⁵ Submission 19, Mrs Kath and Mr Les Cheers, p 6.

¹²⁶ Submission 28, Mr Peter Christenson, p 2.

¹²⁷ Submission 38, Name Suppressed, p 1.

¹²⁸ Submission 14, Associate Professor Kathryn Barclay, Michelle Voyer, Alistair McIlgorm and Nicole Mazur, p 3.

¹²⁹ Submission 14, Associate Professor Kathryn Barclay, Michelle Voyer, Alistair McIlgorm and Nicole Mazur, p 5.

A Social impact assessment assesses the social consequences of a proposed decision or action on groups of people and their way of life, life chances, health, culture and capacity to sustain these. (Planning Institute of Australia, <<https://www.planning.org.au/policy/social-impact-assessment-1010>>, accessed 5 February 2016)

- 2.53** Dr King also suggested that a Social Impact Assessment should be conducted before proceeding with the proposed reforms.¹³⁰
- 2.54** The committee asked DPI why a Social Impact Assessment for the Business Adjustment Program had not been completed. DPI responded that: ‘Deliberations made by the Structural Adjustment Review Committee (SARC) included high-level discussions of social, economic and environmental impacts of management options.’¹³¹
- 2.55** In response to a question about whether the department had any plans to respond to the call from the UTS research team to undertake a Social Impact Assessment, DPI said: ‘The NSW Government is considering the recommendations of the Social and Economic Evaluation of NSW Coastal Professional Wild-Catch Fisheries and is scoping whether it is feasible to undertake a Social Impact Assessment of the reforms in 2017.’¹³²

Mental health counselling

- 2.56** In addition to free financial counselling and legal advice provided by the government as part of the Business Adjustment Program, fishers are able to access the Fisher Care Line: free telephone based coaching sessions to support fishers experiencing stress. The committee heard mixed views regarding this type of support. While Dr King acknowledged the need for dedicated mental health support for fishers affected by the reforms,¹³³ other inquiry participants felt counselling was offered as a panacea for the inadequacy of the reform program. For example, the President of the Wild Caught Fishers Coalition, Mr Dane Van Der Neut, said that the government should focus on fixing the problem rather than offering pamphlets on counselling:

That, to me, is the Government throwing their hands in the air and saying, “Well, look, we are going through with it. You’ve just got to deal with it. We’ll help you through it.” Instead of fixing the issue, which is the actual Government’s changes, they say, “You’re the issue because you can’t handle it.” That seems to be typical of every government that this industry has put up with.¹³⁴

- 2.57** The Secretary of the Wild Caught Fishers Coalition, Ms Mary Howard, expressed a similar view:

Like farmers, fishers are no different in terms of they come from a farming family as well. Men are proud. They do not like this notion that they need to go and get help. And then you ask the question “Why am I getting help?” Then you come to something where you have got a meeting and what is the solution? The solution is exactly what Dane just says, resolve the problem, but every time you try to resolve the problem, every four-year cycle, it is always the removal of the commercial fisher that is

¹³⁰ Evidence, Dr King, 14 December 2016, p 25.

¹³¹ Answers to supplementary questions, Department of Primary Industries, 10 January 2017, question 5, p 1.

¹³² Answers to questions on notice, Department of Primary Industries 23 December 2016, question 4, p 3.

¹³³ Evidence, Dr King, 14 December 2016, p 7.

¹³⁴ Evidence, Mr Van der Neut, 14 December 2016, p 7.

the resolution of the problem to the point where we are not the problem any more, and it is time to recognise it.¹³⁵

- 2.58** The General Manager of the Clarence River Fishermen’s Co-operative, Ms Danielle Adams, has witnessed the mental health impact of the reform program first-hand:

It has been horrific. I am pretty tough, but having hardened fishermen sitting in front of me in tears, or bringing in their family to discuss their future is not easy... It was offensive that when they received the paperwork for this process the first thing they saw was a pamphlet about counselling. The underlying message was, “We know this will create pain and here is an opportunity to talk to someone.”¹³⁶

- 2.59** The Professional Fishermen’s Association is regularly contacted by fishers’ families seeking further information and counselling who advise that:

... speaking to DPI or counselling services provided no solace. DPI was not trusted and sometimes reported as being curt or unsympathetic. The counselling services had no understanding of the Reform processes or commercial fishing issues.¹³⁷

Committee comment

- 2.60** A comprehensive Social Impact Assessment should have been commissioned *prior* to the commencement of the Business Adjustment Program in May 2016. Generations of fishers in New South Wales have developed a rich and distinct culture and we rely on their skills and knowledge to supply us with local, fresh seafood. Given the impact of the reforms on this unique community, especially in relation to the small or ‘Group B’ fishers, it is hard to understand why this assessment was not undertaken. Such an analysis would have assisted the department to better understand the depth of fishers’ concerns, thus informing its approach to implementing and communicating the reforms.

- 2.61** Even though the reform process has already commenced, it still has a way to go and we should not let this opportunity pass. We therefore urge the department to commission a Social Impact Assessment as soon as practicable, on the understanding that it will not further delay the reform timeline and make the findings of the assessment public.

Recommendation 13

That the NSW Department of Primary Industries commission a Social Impact Assessment of the Business Adjustment Program on commercial fishers in New South Wales and make the findings of the assessment public.

- 2.62** With regards to mental health counselling, while we appreciate the cynicism many fishers feel about such services, we are also mindful of the need to ensure appropriate assistance is

¹³⁵ Evidence, Ms Mary Howard, Secretary, Wild Caught Fishers Coalition, 14 December 2016, p 17.

¹³⁶ Evidence, Ms Danielle Adams, General Manager, Clarence River Fishermen’s Co-operative, 19 December 2016, p 23.

¹³⁷ Submission 85, Professional Fishermen’s Association, p 29.

available to fishers grappling with uncertainty and stress as a consequence of the reforms, and therefore support the continued funding and operation of the Fishers Support Line.

Communication and consultation mechanisms

Concerns about communication and consultation

2.63 While the department claims that the Business Adjustment Program has been informed by a ‘thorough, transparent and consultative process’¹³⁸ inquiry participants frequently complained about the inadequacy of the department’s communication and consultation regarding this complex reform.

2.64 Their concerns included:

- generic or inconsistent information provided via the Business Adjustment Program Hotline
- delayed, untimely and/or unclear correspondence regarding the reform process
- a complete lack of response by the department to issues or questions raised
- the absence of a formal consultation process.¹³⁹

2.65 As a consequence, commercial fishers told the committee that they have felt ignored by the department and uncertain about the reform process, contributing to an erosion of trust between DPI and industry.¹⁴⁰

2.66 Mr Scott Hansen, Director General, Department of Primary Industries, acknowledged that communication had indeed been a challenge: ‘there is almost a reform fatigue ... it is an ongoing challenge to keep everyone informed, motivated, and along with the process’. He did however note that it is now clear that individual, private and personal communication with commercial fishers had proved to be the most beneficial and effective means of communication.¹⁴¹

2.67 Further to this, it was suggested to the committee that some of these challenges could have been avoided with the development of a formal consultation framework. General Manager of the Sydney Fish Market, Mr Bryan Skepper, told the committee that the department’s consultation efforts to date had been ineffective:

¹³⁸ Submission 79, NSW Department of Primary Industries, p 10.

¹³⁹ See for example: Submission 160, Wild Caught Fishers Coalition – Region 4 South, p 4; Submission 117, Ms Tisha Limon, p 1; Submission 55, Mrs Simone Ragno, p 29; Submission 72, Ms Laila Christensen, p 3; Submission 86, Mr Gary Braithwaite, p 2; Submission 92, Abalone Association NSW, p 2.

¹⁴⁰ See for example: Submission 96, Hawkesbury River Seafood, p 4; Submission 156, Mr Jason Hughes, pp 1-2; Evidence, Mr David Malone, commercial fisher, 14 December 2016, p 61; Evidence, Mr Lawrence McEnally, Fisherman and Chairman, Macleay River District Fishermen’s Co-operative Limited, 14 December 2016, p 15.

¹⁴¹ Evidence, Mr Hansen, 12 December 2016, p 15.

I think there has been a lot of effort put into consultation but it is arguable that it has been fully effective. In fact, it was probably not because of the concerns that have been raised within industry. I have always held the view that if a formal consultation framework and a catching sector peak body had been established right at the beginning we may have had a different outcome than we have had now.¹⁴²

The need for a ministerial advisory group

- 2.68** Inquiry stakeholders suggested that the re-establishment of a commercial fishing ministerial advisory group would help improve communication in the sector.
- 2.69** The 2012 Independent Review of NSW commercial fisheries described a breakdown in the ministerial consultative mechanisms at the time, in particular the Seafood Industry Advisory Council [SIAC] and the Management Advisory Committees [MACs]. SIAC, a statutory body that operated between 2005 and 2010, was responsible for advising the Minister on high level policy issues relating to commercial fishing. The MACs were statutory bodies responsible for advising the Minister on matters relating to relevant sectors of the commercial fishing industry between 1997 and 2012.¹⁴³
- 2.70** Stevens and his colleagues identified a number of reasons for the collapse in these consultative arrangements, including: different selection processes for SIAC and the MACs with the former based on appointments and the latter on elections; inconsistent advice from SIAC and the MACs to the department; frustration over the length of time it took to modify rules and regulations; and instructions from the Minister's Office for SIAC to operate in confidence.¹⁴⁴
- 2.71** As a result, the industry began to bypass the department's consultation framework and directly engage with the Executive of DPI or the Minister, resulting in a situation where Department staff were not confident exercising authority in meetings or decision-making as they were aware the industry could bypass the MAC process.¹⁴⁵
- 2.72** Further to this, SIAC and the MACs stopped operating on a formal basis sometime before 2011 for various reasons, including direction from the government to review the number of advisory bodies reporting to Ministers. During this period, the department informally consulted with former SIAC and MAC members. However, this was a source of frustration for a number of people in the industry who felt that the department was not consulting widely or transparently on the reform program. For example, Wild Caught Fishers Coalition Member, Gary Braithwaite, expressed concern about the way in which SIAC and the MACs operated in the lead up to the reforms:

With the bringing of the reforms, the management advisory committees were shut down for 18 months while SIAC pushed through a lot of this new reform. What the Committee should know is SIAC's membership had ceased prior to them holding

¹⁴² Evidence, Mr Bryan Skepper, General Manager, Sydney Fish Market, 12 December 2016, p 38.

¹⁴³ Department of Primary Industries, *Former Commercial Fisheries Advisory Bodies*, <<http://www.dpi.nsw.gov.au/fishing/commercial/former-commercial-fisheries-advisory-bodies>>.

¹⁴⁴ Richard Stevens, Ian Cartwright, Peter Neville, *Independent Review of NSW Commercial Fisheries Policy, Management and Administration*, March 2012, pp 26-27.

¹⁴⁵ Richard Stevens, Ian Cartwright, Peter Neville, *Independent Review of NSW Commercial Fisheries Policy, Management and Administration*, March 2012, p 27.

meetings and giving information to yourselves, to Ministers, to the public, to DPI, whereas the management advisory committees that were democratically elected were closed down and could not comment on this, and as a member of SIAC under parliamentary privilege I could not even go back to my members at the MAC to bring forward some of the issues that I could see were going to come up until it was all too late. It was all orchestrated so that the MACs could not interfere. This problem would not have arisen if it had gone back to the management advisory committees.¹⁴⁶

- 2.73** Executive Officer of the Professional Fishermen's Association [PFA] Ms Patricia Beatty emphasised that the establishment of a ministerial or commercial fishing advisory council with a 'supporting structure' was essential as no such council has existed since the disbandment of SIAC.¹⁴⁷ Similarly, the Sydney Fish Market called for the 'immediate establishment of the proposed Ministerial Advisory Council on Commercial Fisheries'.¹⁴⁸
- 2.74** The Minister advised the committee that the department would be calling for expressions of interest for the Commercial Fishing Advisory Council [CommFish NSW] and related working groups in early 2017. He explained that CommFish NSW will be set up with the aim to increase engagement between the government and the industry, while the working groups will work alongside CommFish NSW to 'examine the specific management arrangements under the new share linkage regime'.¹⁴⁹ The committee understands that CommFish NSW will determine the governance framework of the working groups.
- 2.75** According to Mr Skepper, a governance framework for an advisory council should be 'set up in such a way that the sectors' representational processes can feed into it'.¹⁵⁰
- 2.76** Further to this, the Clarence River Fishermen's Co-operative [CRFC] argued that the selection processes for consultative mechanisms such as a ministerial council should be open and transparent to ensure wide engagement with the industry as a whole.¹⁵¹ The CRFC questioned DPI's current selection processes for representative bodies or paid consultation positions: 'There seems to be a consistent trend that any consultation process, working group or Industry meeting be attended by Industry representatives selected by Fisheries/DPI'.¹⁵²
- 2.77** It was also suggested that consultation with the commercial fishing industry should also include the recreational fishing and Aboriginal fishing communities.¹⁵³

The need for a peak industry body

- 2.78** In addition to a ministerial advisory group, several inquiry participants argued for the establishment of a unified peak industry group to represent commercial fishers.¹⁵⁴

¹⁴⁶ Evidence, Mr Gary Braithwaite, Wild Caught Fishers Coalition, 14 December 2016, p 4.

¹⁴⁷ Evidence, Ms Patricia Beatty, Executive Officer, Professional Fishermen's Association, 14 December 2016, p 43.

¹⁴⁸ Submission 70, Sydney Fish Market Pty Ltd, p 1.

¹⁴⁹ Evidence, The Hon Niall Blair MLC, 19 December 2016, pp 3-4.

¹⁵⁰ Evidence, Mr Skepper, 12 December 2016, p 40.

¹⁵¹ Submission 46, Clarence River Fishermen's Co-operative, p 9.

¹⁵² Submission 46, Clarence River Fishermen's Co-operative, p 9.

¹⁵³ Evidence, Mr Poole, 12 December 2016, p 2.

- 2.79** In his appearance before the committee, the Minister highlighted the importance of a collective independent voice within the commercial fishing industry:

One of the things that stood out for me during this process is the disjointedness of the industry. I have sat in a room with 10 people and had 15 different opinions put forward. The peak bodies cannot agree, they cannot agree amongst themselves. I think that in itself poses: Is the industry up for other challenges coming from other threats?

...

The industry needs to be strong enough to speak on its own and in a way that is addressing the issues collectively. With respect to those who have been involved to date, they have spent so much time arguing against each other that they do not have a collective voice to be able to even prosecute what their major issues or concerns are.¹⁵⁵

- 2.80** The 2015 SARC Report noted the challenge of implementing reforms in the context of a divided industry:

The environment for consultation with industry over proposed share linkages has been volatile, fuelled by mistrust of Government, the absence of a unifying and effective industry body and a vocal group of stakeholders unwilling to accept the objectives of the reform.¹⁵⁶

- 2.81** Indeed, the absence of a single and unified peak industry group has exacerbated the challenge of government engagement with the industry. The 2012 Independent Review of NSW commercial fisheries found that the industry's inability to set up a peak industry body representative of all industry views led to 'ad hoc and piecemeal lobbying of Ministers and the department on a range of issues, but without an effective group driving industry policy for the industry as a whole'.¹⁵⁷ Accordingly, Stevens and his colleagues recommended that a peak body be established following an extensive consultation process with industry on the structure and funding of such a body.

- 2.82** The committee understands that there have indeed been repeated attempts by the industry to set up a peak industry body. Notably, the PFA commissioned independent consultant Mr Neil MacDonald in 2013 to develop a model that the PFA (or any other representative body) could follow to modify their current structure to that of a peak industry body.¹⁵⁸ MacDonald noted that while most funding should come from licence holders in the commercial fishing industry, there was some scope for government funding.¹⁵⁹ The report identified New South Wales as

¹⁵⁴ See for example: Submission 85, Professional Fishermen's Association, p 19; Submission 117, Ms Tisha Limon, p 5; Submission 70, Sydney Fish Market Pty Ltd, p 1.

¹⁵⁵ Evidence, The Hon Niall Blair MLC, 19 December 2016, p 5.

¹⁵⁶ Ian Cartwright, Mary Lack, Sevaly Sen, *NSW Commercial Fisheries Reform, Structural Adjustment Review Committee, Final Share Linkage Recommendations*, 30 September 2015, p 11.

¹⁵⁷ Richard Stevens, Ian Cartwright, Peter Neville, *Independent Review of NSW Commercial Fisheries Policy, Management and Administration*, March 2012, p 27.

¹⁵⁸ Neil Macdonald, *Development of an industry representative framework for co-management in NSW Fisheries: An industry co-management body for NSW*, March 2015.

¹⁵⁹ Neil Macdonald, *Development of an industry representative framework for co-management in NSW Fisheries: An industry co-management body for NSW*, March 2015, pp 11-12.

the only state without a peak industry body for the commercial fishing industry. Government support, including direct financial support, exists in other states by way of administrative or extension support and/or consultation contracts. The committee is not aware of the government's position on the findings of the MacDonald Report.

- 2.83** In the absence of a peak industry body, DPI ran a tender process in 2014 to contract an industry group to deliver consultation services on behalf of industry.¹⁶⁰ The request for tender was closed with no contract awarded. The PFA told the committee they were informed by DPI that their application was unsuccessful due to cost. The department also did not believe that the PFA could separate their lobbying function from their consultation services.¹⁶¹
- 2.84** The department confirmed that all tenderers were informed of the outcome and shortfalls of their application.¹⁶² The department also told the committee that all tenderers failed on more than one criteria such as 'having a sound governance model, being financially viable, having experience with similar projects and knowledge of the commercial fishing industry'.¹⁶³
- 2.85** When asked about the department's current plans to facilitate the set up of a peak industry body, Mr Hansen questioned the appropriateness of government to establish and fund such a group:

...you will find if you looked across the history of many industries that wherever government tries to establish an advisory group or peak council the first unpopular decision spawns offshoots and spawns industry groups that oppose those decisions. Unless it is actually owned and driven by industry, they never merge back again. You end up constantly having a fracturing of industry where government, the very vehicle that is meant to be being lobbied and be the target and the subject of the work of a peak body for an industry, is also the supplier of the funds, the framework and the model. It is a very difficult way in which a peak body is established.¹⁶⁴

- 2.86** The view that a peak industry body should be driven by industry was supported by the 2015 SARC Report:

Industry needs to commit to the development of a representative peak industry body which has its full support and confidence. Whilst the development of such a peak body is more likely to occur once the dust has settled and there is a clearer idea of the number of operators remaining in the fishery, the groundwork for such a peak body could be supported now. The recommendations made in the Steven's Review about industry representation remain valid.¹⁶⁵

- 2.87** Nevertheless, the department later stated in their supplementary submission that it would seek advice from the Small Business Commissioner on this issue.¹⁶⁶

¹⁶⁰ Supplementary submission 79a, NSW Department of Primary Industries, 9 January 2017, p 5.

¹⁶¹ Correspondence from Ms Patricia Beatty, Executive Officer, Professional Fishermen's Association to the committee, 9 January 2017.

¹⁶² Answers to questions on notice, NSW Department of Primary Industries, 9 January 2017, p 2

¹⁶³ Supplementary submission 79a, NSW Department of Primary Industries, p 5.

¹⁶⁴ Evidence, Mr Hansen, 19 December 2016, p 12.

¹⁶⁵ Ian Cartwright, Mary Lack, Sevaly Sen, *NSW Commercial Fisheries Reform, Structural Adjustment Review Committee, Final Share Linkage Recommendations*, 30 September 2015, p 11.

¹⁶⁶ Supplementary submission 79a, NSW Department of Primary Industries, p 5.

Committee comment

- 2.88** The committee acknowledges inquiry participants' concerns regarding communication and consultation mechanisms for commercial fishers. Every report or review of commercial fishing over the past decade has noted the poor level of trust and respect between the department and commercial fishers, and among fishers themselves. Contributing to this lack of trust, or perhaps as a consequence, the formal consultation mechanisms that exist in many other industries such as ministerial advisory councils and industry peak bodies, have been abandoned, ignored or dissolved in the commercial fishing industry. Without such structures in place it is not surprising the government has had trouble trying to convince fishers of the benefits of this complex reform.
- 2.89** The committee welcomes the announcement of CommFish NSW and the related working groups, and encourages the government to set this up as soon as possible. It is important that CommFish NSW and the working groups are established with strong governance structures, drawing on the NSW Government Boards and Committees Guidelines. Further to this, the selection process for Commfish should be transparent, ensure wide and diverse representation within the commercial fishing industry, and include a representative from the Aboriginal fishing community and recreational fishing sector, recognising that there should also be a commercial fishing representative on the recreational fishing advisory committee. Finally, the members of CommFish NSW and the working groups should be provided with ongoing support and training to maximise their participation.
- 2.90** There is a pressing need for a peak industry body for the commercial fishing sector to guide the implementation of the reform and for future engagement with the NSW Government. It is in the interest of government to support and aid the formation of a peak industry body to assist in ongoing consultation that will be required between government and industry to implement the reforms and rebuild trust. While the government has said that a peak industry body should be driven by industry, we note that the department has indicated that it will seek advice from the Small Business Commissioner on the issue, so we would urge industry representatives to seek clarification from the department regarding any advice sought or received from the Commissioner.

Recommendation 14

That the Minister for Primary Industries:

- establish the Commercial Fishing Advisory Council (CommFish NSW) by July 2017, in accordance with the NSW Government Boards and Committees Guidelines. The Council should be broadly representative of the industry and include Aboriginal and recreational fishers.
 - ensure that members of the NSW Commercial Fishing Advisory Council receive appropriate support and training.
-

Recommendation 15

That the NSW Government assist industry to establish a peak body for commercial fishing in New South Wales to improve communication within the industry and enhance industry input into the future management of fisheries in New South Wales. This body should receive sustainable funding to strengthen the reform process.

Aboriginal cultural and commercial fishing

2.91 The committee received limited evidence about the impact of the Business Adjustment Program on Aboriginal commercial fishers.

2.92 The department draws a clear distinction between commercial fishers who are Aboriginal and Aboriginal cultural fishing.¹⁶⁷ The Minister confirmed this view:

We believe that to progress the issue of cultural fishing we must remove the blurring of what is cultural fishing and what is fishing for commercial purposes under the guise of cultural fishing.¹⁶⁸

2.93 However, Mr Raymond Saunders, a fourth generation Aboriginal commercial fisher does not distinguish between cultural fishing and commercial fishing undertaken by Aboriginal people.

We do not see a distinction. As I said in my submission, we have been able to marry the two thoughts or cultures, if you will. We have married the culture of cyclic fishing methods, reading tides, reading moons, reading weather conditions and impacts on fish behaviour with commercial fishing practices. You are right, a distinction has been made that Aboriginal fishing rights are purely looking out for the amateur Aboriginal fisherman to practice old methods of fishing. The people who are responsible for setting those policies in place had consulted Aboriginal commercial fishermen up and down the coast but those voices do not seem to have been heard in that equation. There is now a distinction.¹⁶⁹

2.94 Mr Grant Saunders, Raymond Saunders's son and an apprentice fourth generation fisherman spoke about his father's response to industry reforms:

My father once loved and cherished the act of fishing his traditional hunting grounds, inherited by his father and forefathers. He once enjoyed the healthy lifestyle of maintaining an economical and ecological sustainable Aboriginal commercial fishing business. Now, because of wrong headed policies and restrictions imposed by an ever-changing and apathetic government ministry, he feels that the joy of fishing and his

¹⁶⁷ *Aboriginal cultural fishing* means fishing activities and practices carried out by Aboriginal persons for the purpose of satisfying their personal, domestic or communal needs, or for educational, ceremonial or other traditional purposes, and which do not have a commercial purpose. *Fisheries Management Act 1994*, s 4.

¹⁶⁸ Evidence, The Hon Niall Blair MLC, , 19 December 2016, p 8.

¹⁶⁹ Evidence, Mr Raymond Saunders, Aboriginal commercial fisher, 19 December 2016, p 18.

economic independence has been stolen from him and his family; a business that once provided him and his family a healthy sustainable livelihood.¹⁷⁰

2.95 When asked about the impact of specific fishing zones implemented by the Department on their traditional fishing, Mr Saunders said:

...it has hindered the practice of cyclic fishing... It is not only damaging our financial wellbeing, like I said before, it is another form of displacement of our people...¹⁷¹

2.96 In its submission, the New South Wales Aboriginal Land Council recommended that the department consider the impact of the reforms on Aboriginal commercial fishers specifically and referred to commitments given by the former government to the 2009 inquiry into Recreational Fishing in New South Wales:

That the Committee give consideration to how Aboriginal people's economic development aspirations can be supported, particularly given the outstanding commitments made by the NSW Government.¹⁷²

2.97 Following the Recreational Fishing inquiry, the government committed to investigate a block licensing system for Aboriginal commercial fishers, and specific succession provisions for Aboriginal commercial fishing licences.¹⁷³ The Land Council continues to support these proposals, as well making other suggestions to assist Aboriginal commercial fishers, such as a reducing licence fees and reallocating unused commercial licences to the Aboriginal commercial fishing sector, among others.¹⁷⁴

2.98 The 2012 Independent Review of NSW Commercial Fishing Policy, Management and Administration noted that in the Northern Territory there were 'specific programs and resources provided to assist and encourage Aboriginal fishing opportunities'.¹⁷⁵

2.99 The 2015 Structural Adjustment Review Committee report recommended special arrangements be considered for Aboriginal commercial fishers such as permitting the use of unlicensed crew in the Ocean Hauling General Purpose Net share class.¹⁷⁶ The department advised the 2015 Structural Adjustment Review Committee:

... it is aware of the concerns raised by Aboriginal commercial fishers; it considers that these issues extend well beyond the scope of the reform program; and that it will be considering these issues under a separate process.

2.100 The department is committed to providing individualised assistance to Aboriginal commercial fishers who are concerned about the Business Adjustment Program,¹⁷⁷ including

¹⁷⁰ Submission 89, Mr Grant Saunders, p 2.

¹⁷¹ Evidence, Mr Grant Saunders, Aboriginal commercial fisher, 19 December 2016, p 19.

¹⁷² Submission 101, New South Wales Aboriginal Land Council, p 6.

¹⁷³ Government response to the inquiry into Recreational Fishing in New South Wales, December 2010.

¹⁷⁴ Submission 101, Aboriginal Land Council, p 5.

¹⁷⁵ *2012 Independent Review Report, Stevens, Cartright and Neville*, March 2012, p 10.

¹⁷⁶ *Final Share Linkage Recommendations, Structural Adjustment Review Committee report*, Cartwright, Lack and Sen, 30 September 2015, p 9.

¹⁷⁷ Evidence, The Hon Niall Blair MLC, 19 December 2016, p 3.

consideration of the continuation of permits in certain circumstances for Aboriginal fishers¹⁷⁸ (a grandfathered fishing permit system ceased operation on 31 December 2016). The government is not considering a separate or protected share class for Aboriginal commercial fishers, but the department expects that the Aboriginal Commercial Fishing Trust might assist fishers affected by the reforms:

We have set up an Aboriginal commercial fishing trust. That is potentially different from the Government entering the market. I have great hope in it entering the market to provide shares that continue to be worked with the industry. The Government may contribute some money to that.¹⁷⁹

2.101 The NSWALC recommended that the trust be properly and sustainably resourced by the NSW Government as a ‘...key vehicle to drive investment in Aboriginal owned enterprises in the fishing sector...’¹⁸⁰

2.102 However, the Minister could not confirm that the Trust would be in place prior to the commencement of the subsidised share trading process as ‘that depends on when we do the subsidised round.’ The Minister also advised that the department would need to set up the overseeing body and governance arrangements.¹⁸¹ DPI advised that:

... the Trust will operate on the basis of calls for expressions of interest which would not align with the planned framework for the Business Adjustment Programme (BAP). The proposed market has been constructed to allow for minimal involvement from Government. Inclusion of the Trust in this process could distort the market and threaten the integrity of the BAP.¹⁸²

2.103 Nonetheless, Mr Scott Hansen, Director General of the Department of Primary Industries stated that while the Trust could potentially operate in the share market trading scheme: ‘Given that it will not have been an active fisher, it will not be eligible for a subsidy. It could be trading before, after or during without really needing to be linked to that time line’.¹⁸³

2.104 Mr Raymond Saunders highlighted that information about the Trust was not well known: ‘No members of any government department ... have notified us of [the Aboriginal Commercial Fishing Trust] existence or any benefits arising from it’.¹⁸⁴

Committee comment

2.105 The committee welcomes the department’s commitment to providing one to one assistance to Aboriginal commercial fishers impacted by the Business Adjustment Program. But this commitment applies to all commercial fishers, not just those who are Aboriginal. The

¹⁷⁸ *In camera* evidence, The Hon Niall Blair, Minister for Primary Industries, 19 December 2016, p 5.

¹⁷⁹ Evidence, The Hon Niall Blair MLC, 19 December 2016, p 8.

¹⁸⁰ Standing Committee on State State Development, NSW Legislative Council, *Economic Development in Aboriginal Communities* (2016), pp 80-81.

¹⁸¹ Evidence, The Hon Niall Blair MLC, 19 December 2016, p 8.

¹⁸² Answers to questions on notice, Department of Primary Industries, 10 January 2017, p 6.

¹⁸³ Evidence, Mr Hansen, 19 December 2016, p 8.

¹⁸⁴ Answers to questions on notice, Mr Raymond Saunders, 4 January 2017, p 2.

committee also welcomes the government's commitment to consider extending permits in certain circumstances for Aboriginal commercial fishers.

- 2.106** The 2015 Structural Adjustment Review Committee recommended 'special arrangements' be considered for Aboriginal commercial fishers, and in response, the department said it would be considering these issues under a separate process. However, it is not clear to the committee what this separate process might be. If it is the Aboriginal Commercial Fishing Trust, we would urge the Minister to activate this trust as soon as possible so that it can start work on supporting Aboriginal commercial fishers, especially in the context of major industry reform.

Recommendation 16

That the Minister for Primary Industries ensure that the Aboriginal Commercial Fishing Trust is fully operational by July 2017.

Recommendation 17

That the Department of Primary Industries give further consideration to the continuation of permits in certain circumstances for Aboriginal commercial fishers.

Country of origin labelling

- 2.107** While packaged and unpackaged seafood sold through retail channels must be labelled with its country of origin, this is not a requirement for seafood sold for immediate consumption such as in restaurants and take away food outlets. Given New South Wales imports close to 90% of its seafood,¹⁸⁵ much of which is used for immediate consumption, this has a significant impact on consumer choice.

- 2.108** A number of witnesses to the inquiry supported country or source of origin labelling as a means of enhancing consumer choice, and as a method of promoting quality New South Wales sourced product to consumers. Rob Gauta, General Manager of the Commercial Fisherman's Cooperative Limited (Newcastle) described his businesses' support for country of origin labelling:

We believe that is important. ...We would like to ensure that other suppliers are operating on a level playing field—that is, restaurateurs and so on. If their customers knew where their product was coming from they may or may not choose to force that business to buy Australian.¹⁸⁶

- 2.109** Bryan Skepper, General Manager of the Sydney Fish Market also supported country of origin labelling for all seafood to assist consumers to make informed choices:

¹⁸⁵ Evidence, Professor Bob Kearney, Emeritus Professor, University of Canberra, 12 December 2017, p 51.

¹⁸⁶ Evidence, Mr Rob Gauta, General Manager Commercial Fisherman's Cooperative Limited (Newcastle), December 2016, p 32.

The country of origin labelling right through the supply chain is important...where the seafood is the centre of plate dish there should be country of origin labelling mandated. If you go to most of the other proteins that are on restaurant menus in Australia—the beef, the lamb, the chicken—virtually all of them are grown or produced in Australia. In seafood that is not the case. The consumer might go to a restaurant assuming that it is locally caught product and it is not. They should have the information available to make an informed choice.¹⁸⁷

- 2.110** The committee heard that approximately \$400,000 has been allocated to promote the New South Wales seafood industry as part of a community awareness program. Bryan Skepper agreed that building support for the local seafood industry would be more effective if it also included strengthening country of origin labelling provisions.¹⁸⁸ In 2008 the Northern Territory Government became the first Australian jurisdiction to require all seafood sold for immediate consumption to be advertised as imported if it has been harvested outside Australia, or if it is a mixed seafood dish containing imported seafood.¹⁸⁹
- 2.111** In November 2016, the federal government announced that it would establish a working group to consider improvements to origin labelling for seafood sold in the food services sector in Australia. The working group will report back to the federal Parliament by the end of 2017.¹⁹⁰
- 2.112** In May 2016 the NSW government announced its support for a country of origin labelling requirement for outlets selling seafood for immediate consumption¹⁹¹ and committed to working closely with the fishing, catering industries and retailers on how a source of origin labelling scheme could operate in NSW.¹⁹²

Committee comment

- 2.113** The committee welcomes the government's plans to extend country of origin labelling requirements to seafood sold for immediate consumption. We urge the government to complete its consultation and commence implementation of a labelling scheme, with any necessary funding for successful implementation, by December 2017.
- 2.114** In addition to country of origin labelling, the committee considers there is merit in the idea of the creating and promoting a New South Wales seafood label as part of the government's planned community awareness program and funding.

¹⁸⁷ Evidence, Mr Skepper, 12 December 2016, p 39.

¹⁸⁸ Evidence, Mr Skepper, 12 December 2016, p 39.

¹⁸⁹ Australian Parliament House, Jaan Murphy, *Seafood Country of Origin Labelling: prospects of future reform?* (30 June 2016) <http://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/FlagPost/2016/June/Seafood_Country_of_Origin_Labelling>.

¹⁹⁰ Department of Industry, Innovation and Science, *Country of Origin Labelling*, <<https://www.industry.gov.au/industry/IndustrySectors/FoodManufacturingIndustry/Pages/Country-of-Origin-Labelling.aspx>>

¹⁹¹ Media release, Troy Grant, Deputy Premier, and the Hon Niall Blair MLC, Minister for Primary Industries, 'Seafood labelling on the menu in NSW', 27 May 2016.

¹⁹² Answers to questions on notice, Department of Primary Industries, 10 January 2017, p 5.

Recommendation 18

That the NSW Government:

- complete its consultation on a country of origin labelling scheme for seafood sold for immediate consumption and commence implementation of a labelling scheme with any necessary funding by December 2017
 - consider the creation of a New South Wales seafood label as part of the planned community awareness program.
-

Appendix 1 Submissions

No	Author
1	Mr Troy Jones
2	Mr Jeremy Hooper
3	Mr Claudio Zarrella
3a	Mr Claudio Zarrella (Partially confidential)
4	Mr Tom O'Grady
5	Ms Maree O'Grady
6	Name suppressed
7	Name suppressed
8	Mr David Malone
9	Pinzone Brothers
10	It's Wild Seafood
11	Mr Chris Wallis
12	Name suppressed
13	Name suppressed
14	Associate Professor Kathryn Barclay, Dr Michelle Voyer, Professor Alistair McIlgorm, Dr Nicol Mazur
15	Mr Ian McRae
16	Confidential
17	Mr Paul Horan
18	Mr Matthew Creek
19	Mrs Kath and Mr Les Cheers
20	Wanderer Marine Enterprises
21	Macleay River District Fishermen's Co-operative Limited
22	Mr George Ross Miller (Partially confidential)
23	Name suppressed
24	Confidential
25	Auslink Marine Products
26	Name suppressed
27	Mrs Michaele Smith
28	Mr Peter Christensen
29	Mr Ron Snape (Partially confidential)
30	Mr Ed Lammerink

No	Author
30a	Mr Ed Lammerink
31	Name suppressed
32	Wild Caught Fishers Coalition Region 1
33	Markwell Fisheries
34	Mr Alan Ford
35	Mr Kelvin Wynn
35a	Mr Kelvin Wynn
36	Name suppressed
37	Mr Ted Allan
38	Mrs Mylee Cheers (Partially confidential)
39	Mr Michael Cheers
40	Name suppressed
41	Mrs Caroline Baker
42	Confidential
43	Mr Jarrod Wynn
44	Professor Bob Kearney
45	Mrs H Praja
46	Clarence River Fishermen's Co-operative
46a	Confidential
47	Mr Michael Coulter
48	Mr Ross Sanders
49	Name suppressed
50	Mr Gordon Hareide
51	Mr Grant Paul
52	Ms Lesley Hale
53	Nature Conservation Council of NSW
54	Mr Graeme Byrnes
55	Mrs Simone Ragno (Partially confidential)
56	Name suppressed
57	Confidential
58	Mr Paul Heron
59	Mr L.J. Keppie
60	Mr Kevin Solway
60a	Mr Kevin Solway

No	Author
61	Name suppressed
62	Confidential
63	Mr Paul Sullivan
64	Commercial Fishermen's Co-operative
65	Mr Nathan Smith
66	Mr Michael Laverty
67	Mr Allan Jeffrey Reed
68	Mr Allan S. J. Reed
69	Mr Bradley Smith (Partially confidential)
70	Sydney Fish Market Pty Ltd
71	Name suppressed
72	Ms Laila Christensen
73	Mr Donald Mowbray
74	Mr Rodney Wright
74a	Mr Rodney Wright
75	Mr EB & F Want
76	Mr Bruce Ellem
77	Mr Allan Bodycote
78	Mr Geoff Blackburn
79	NSW Department of Primary Industries
79a	NSW Department of Primary Industries
80	Mr David Smith
81	Mr Benjamin Markwell
82	Mr Christopher Derek Baggaley
83	Mr Ian North
84	Mr Warren McWilliam
85	Professional Fishermen's Association
86	Mr Garry Braithwaite
87	Professor Alistair McIlgorm
88	Mr Raymond Saunders
89	Mr Grant Saunders
90	Mr David Mehan MP
91	NSW Fishermens Cooperative Association
92	Abalone Association NSW

No	Author
93	Hozack Clisdell Lawyers
94	Ballina Fishermen's Co-operative Limited
95	Wallis Lake Fishermen's Co-operative
96	Hawkesbury River Seafood (Partially confidential)
97	Name suppressed
97a	Name suppressed
98	Wild Caught Fishers Coalition
98a	Wild Caught Fishers Coalition
99	Recreational Fishing Alliance of NSW
100	Name suppressed
101	New South Wales Aboriginal Land Council (NSWALC)
102	Mr Barry Aish
103	Mr Dallas Johnson
104	Mr James Elliott
105	Mr Richard Howard
106	Mr Anthony Ragno
107	Mr Ryan Ragno
108	Australian Fishing Trade Association
109	Fresh Caught Pty Ltd
110	Mr Younes Ali-Melhem
111	Mr Andrew S Nye
112	Mr Nathan Neilly
113	Mr Mathew Hollis
114	Mr Craig Nye
115	Mr Paul Moody
116	Name suppressed
117	Ms Tisha Limon (Partially confidential)
118	Mr Craig King
119	Mr Sam Ragno
120	Mr Allan Saunders
121	Mr Chris Watson
122	Mr Daniel Smith
123	Miss Jody Guttridge
124	Mr Wayne Meyer

No	Author
125	Mr Christopher Collier
126	Mrs Sylvia Jukopilla
127	Mr Peter Robinson (Partially confidential)
127a	Mr Peter Robinson
128	Mr Matthew Creek
129	Ms Reala Brislane
130	Ms Esmay Hropic
131	Mr Robert Alwyn John Ray
132	Mr Anthony Terare
133	Mr Chris Brierley
134	Mr Emil Hropic
135	Mr J E Brierley
136	Mr Jason Spackman
137	Mr Rolf Norington
138	Mr Peter Stanton
139	Mr Allan Broadhurst
140	Mr Mark Wanless
141	Mrs Elvina Paulson-Oxley
142	Mr Noel Bramble
143	Name suppressed
144	Mr John and Mrs Susan Luke
145	Mr Robert Elliott
146	Mr Dean Elliott
147	Confidential
148	Name suppressed
149	Confidential
150	Confidential
151	Mr Allan Blake
152	Mr Kyall Chalker
153	Mr Glen Nowlan
154	Mr Peter Carlon
155	Mr Kim Poole
156	Mr Jason Hughes
157	Mr Nathan Lenard

No	Author
158	Mr Allan Farrell
159	Mr Scott Massey
160	Wild Caught Fishers Coalition Inc – Region 4 South
161	Mr Peter Ragno
162	Mr Craig Aish
163	Mr Stephen Smith
164	Mr David Blanch
165	Mr Mario Puglisi
166	Mr Phillip Goodwin
167	Mr Sabino Ragno
168	Mr Richard Brown
169	Confidential
170	Mr Denis Brown

Appendix 2 Witnesses at hearings

Date	Name	Position and Organisation
Monday 12 December 2017		
Jubilee Room, Parliament House, Sydney	Mr Malcolm Poole	Fishing Safety Officer, Recreational Fishing Alliance of NSW
	Mr Gary Bordin	Commercial fisher
	Mr Graeme Byrnes	Mid North Coast fisher, Member Ministerial Fisheries Advisory Council
	Mr Ross Fidden	Commercial fisher
	Mr Troy Billin	Commercial fisher
	Mr Geoff Blackburn	Commercial fisher
	Mr Darren Ward	Commercial fisher
	Mr Gary Joblin	Commercial fisher
	Mr Greg Golby	Commercial fisher
	Mr Scott Hansen	Director General, Department of Primary Industries
	Dr Geoffrey Allan	Deputy Director General, Department of Primary Industries Fisheries
	Mr David McPherson	Group Director, Commercial Fisheries and Aquaculture, Department of Primary Industries Fisheries
	Mr Geoffrey Liggins	Supervising Scientist Rock Lobster, Fisheries Resource Assessment, Department of Primary Industries Fisheries
	Associate Professor Kathryn Barclay	Associate Professor, International Studies, University of Technology, Sydney
	Mr Ian Cartwright	Independent Consultant, Former Chair, Structural Adjustment Review Committee; Commissioner, Australian Fisheries Management Authority
	Ms Sevaly Sen	Consultant and Member, Structural Adjustment Review Committee

Date	Name	Position and Organisation
	Mr Robert Gauta	General Manager, Commercial Fishermen's Co-operative Limited, Newcastle
	Mr Bryan Skepper	General Manager, Sydney Fish Markets Pty Limited
	Dr Nick Rayns	Executive Manager, Fisheries Management Branch
	Professor Bob Kearney	Emeritus Professor of Fisheries, Institute for Applied Ecology, University of Canberra
Wednesday 14 December 2016 Jubilee Room, Parliament House, Sydney	Mr Dane Van Der Neut	President, NSW Wild Caught Fishers Coalition
	Ms Mary Howard	Secretary, NSW Wild Caught Fishers Coalition
	Ms Heather Elliot	Member, NSW Wild Caught Fishers Coalition
	Mr Garry Braithwaite	Member, NSW Wild Caught Fishers Coalition
	Ms Tanya King	Senior Lecturer in Anthropology, Deakin University
	Mr Lawrence McEnally	Chairman, Macleay River District Fishermen's Co-operative Limited
	Mr Howard Elliott	Probity Adviser, Probity Advisors and Auditing Consultants (APAC)
	Ms Patricia Beatty	Executive Officer, Professional Fisherman's Association
	Mr Diego Bagnato	Chairman, Professional Fisherman's Association
	Ms Daisy Barham	Campaigns Director, Nature Conservation Council
	Professor Steven Kennelly (<i>via teleconference</i>)	Director, IC Independent Consulting
	Mr Allan Hansard	Chief Executive Officer, Australian Fishing Trade Association

Date	Name	Position and Organisation
	Mr Damian Kerves	Vice President, Australian Fishing Trade Association and Chair, Australian Fishing Trade Association NSW Chapter
	Mr David Malone (<i>via teleconference</i>)	Commercial fisher, South Coast
	Mr Denis Brown	Commercial fisher, Illawarra
Monday 19 December 2016 Jubilee Room, Parliament House, Sydney	The Hon Niall Blair MLC	Minister for Primary Industries
	Mr Scott Hansen	Director General, Department of Primary Industries
	Mr Grant Saunders	Aboriginal commercial fisher
	Mr Raymond Saunders	Aboriginal commercial fisher
	Ms Danielle Adams	General Manager, Clarence River Fishermen's Co-operative
	Mr Paul Heron	Commercial fisher, Illawarra
	Ms Tisha Limon	Co-owner, Nautilus Fisheries
	Mr Brendon Limon	Co-owner, Nautilus Fisheries

Appendix 3 Minutes

Minutes no. 24

Thursday 17 November 2016

General Purpose Standing Committee No. 5

Members' Lounge, Parliament House, Sydney, at 2.15 pm

1. Members present

Mr Brown, *Chair*

Mr Veitch, *Deputy Chair*

Mr Buckingham (from 2.22 pm)

Mr Colless

Mr MacDonald

Mr Pearce

Ms Sharpe (from 2.19 pm)

2. Previous minutes

Resolved, on the motion of Mr Veitch: That draft minutes no. 23 be confirmed.

3. Correspondence

The committee noted the following items of correspondence:

Received:

- 9 November 2016 – Email from Mr Julian Luke, Office of the Minister for Primary Industries and Minister for Lands and Water – attaching answers to questions on notice.
- 16 November 2016– Letter from Mr Brown, Mr Colless and Mr Veitch requesting a meeting of GPSC No. 5 to consider a proposed self-reference into commercial fishing.

Sent:

- 19 October 2016 – Email from Committee Director to Mr Julian Luke, Office of the Minister for Primary Industries and Minister for Lands and Water – attaching transcript of evidence with questions on notice highlighted, supplementary questions and instructions on how to correct the transcript and return answers to questions.

4. Inquiry into Budget Estimates 2016-2017

4.1 Transcript correction

Resolved on the motion of Mr Colless: That Mr Scott Hansen's correction to his evidence of 14 October 2016 at the supplementary Budget Estimates hearing be made.

4.2 Consideration of Chair's draft report – Budget Estimates 2016-2017

Resolved on the motion of Mr MacDonald:

- That the draft report be the report of the committee and that the committee present the report to the House;
- That the transcripts of evidence, tabled documents, answers to questions on notice and supplementary questions, minutes of proceedings and correspondence relating to the Budget Estimates hearings be tabled in the House with the report;
- That upon tabling, all unpublished transcripts of evidence, tabled documents, answers to questions on notice and supplementary questions, minutes of proceedings and correspondence relating to the Budget Estimates hearings, be published by the committee, except for those documents kept confidential by resolution of the committee;

- That the committee secretariat correct any typographical, grammatical and formatting errors prior to tabling;
- That the report be tabled on Friday 25 November 2016.

5. Consideration of terms of reference – Commercial fishing in New South Wales

The Chair tabled the following self-reference:

1. That General Purpose Standing Committee No. 5 inquire into and report on commercial fishing in New South Wales, and in particular:
 - (a) the history of commercial fishing in New South Wales, including reforms to the industry since 1994,
 - (b) the value of the commercial fishing industry to the New South Wales economy,
 - (c) the scientific research underpinning fisheries management,
 - (d) current arrangements for the assessment of fisheries by the NSW Department of Primary Industries Fisheries Resource Assessment Unit,
 - (e) the New South Wales Government's Commercial Fisheries Business Adjustment Program and its aims, including:
 - (vi) the relevance of the Draft Productivity Commission Report into Marine Fisheries and Aquaculture,
 - (vii) the implementation of the restructure to date,
 - (viii) the impact on industry and regional communities to date, including economic, social and cultural impacts,
 - (ix) the economic modelling underpinning the restructure and any independent analysis of that modelling,
 - (x) the approach of other jurisdictions.
2. That the Committee table an interim or final report by 6 April 2017.

Resolved, on the motion of Mr Colless: That the terms of reference be amended by deleting paragraph 2 and inserting instead "2. That the committee table an interim or final report by 28 February 2017.

Resolved, on the motion of Mr Colless: That the committee adopt the terms of reference as amended

6. Conduct of the inquiry into commercial fishing

6.1 Proposed timeline

Resolved, on the motion of Mr Veitch: That the committee adopt the following timeline for the administration of the inquiry:

- that the closing date for submissions be 9 December 2016
- that the committee hold a 1 ½ days of public hearings on 12 and 14 December 2016.

6.2 Stakeholder list

Resolved, on the motion of Mr Veitch: That the committee secretariat make contact with the Minister's office, who have advised they can provide a list of relevant stakeholders and that members provide any additional stakeholders by close of business Friday 18 November 2016.

6.3 Advertising

Resolved, on the motion of Mr Colless: That the inquiry be advertised via twitter, stakeholder letters and a media release distributed to all media outlets in New South Wales, including local inner city media outlets.

7. Adjournment

The committee adjourned at 2.26 pm, *sine die*.

Rebecca Main

Clerk to the Committee

Minutes no. 25

Monday 12 December 2016

General Purpose Standing Committee No. 5

Jubilee Room, Parliament House, Sydney, at 9.16 am

1. Members present

Mr Brown, *Chair*

Mr Veitch, *Deputy Chair*

Mr Colless

Mr Field (substituting for Mr Buckingham for the duration of the inquiry)

Mr Graham (substituting for Ms Sharpe for the duration of the inquiry)

Mr Amato (substituting for Mr MacDonald)

Mr Pearce

2. Draft minutes

Resolved, on the motion of Mr Veitch: That draft minutes no. 24 be confirmed.

3. Correspondence

The committee noted the following items of correspondence:

Received:

- 17 November 2016 – Email from Mr Jeremy Buckingham MLC, to Chair, advising that Mr Justin Field MLC will substitute for Mr Buckingham for the duration of the inquiry
- 17 November 2016 – Email from the Hon Adam Searle to secretariat, advising that Mr John Graham MLC will substitute for the Hon Penny Sharpe MLC for the duration of the inquiry
- 7 November 2016 – Email from the Hon Natasha Maclaren-Jones MLC, to secretariat, advising that the Hon Lou Amato MLC will be substituting for the Hon Scot MacDonald MLC at the hearing on 12 December 2016
- 7 November 2016 – Email from the Hon Natasha Maclaren-Jones MLC, to secretariat, advising that the Hon Scott Farlow MLC will be substituting for the Hon Scot MacDonald MLC at the hearing on 14 December 2016.
- 14 November 2016 – Email from Ms Alexandra Sidorenko, Principal Analyst - Water Pricing, IPART, to the secretariat, providing information for the committee regarding the deferral of a price review for Broken Hill
- 6 December 2016 – Email from Ms Alexia Wellbelove, Senior Program Manager, Humane Society International, to secretariat, declining invitation to appear as a witness at a public hearing on 14 December 2016, but is happy for the Nature Conservation Council to represent its views
- 8 December 2016 – Email from Mr Mark Bryant, Senior Research Economist, Productivity Commission, to secretariat, declining invitation to appear as a witness at hearing on 14 December 2016
- 8 December 2016 – Email from Ms Jo-anne McCrea, Australian Fisheries and Seafood Manager, WWF Australia, to secretariat, declining invitation to appear as a witness at hearing on 14 December 2016
- 24 October 2016 – Letter from Mr Paul McPherson, Chairman, Anabranched Water to the secretariat, advising he was unable to appear as a witness at Broken Hill and offering to answer written questions from the committee.

4. Inquiry into water augmentation

4.1 Deniliquin and Griffith site visits/hearings

Resolved, on the motion of Mr Colless: That the committee approve the cost of \$19,085 for a charter flight to Deniliquin and Griffith for site visits and public hearings on 27 and 28 February and 1 March 2017.

5. Inquiry into commercial fishing in New South Wales

5.1 Public submissions

The following submissions were published by the committee clerk under the authorisation of the resolution appointing the committee: submission nos. 1-5, 8-11, 14, 15, 17-21, 25-28, 30, 32-35, 41, 43, 44, 45, 48, 50-54, 64, 70, 79 and 99.

5.2 Partially confidential submissions

Resolved, on the motion of Mr Veitch: That the committee keep the following information confidential, as per the request of the author: names and/or identifying and sensitive information in submissions nos. 6, 7, 12, 13, 23, 31, 36, 40, 49 and 56.

Resolved, on the motion of Mr Colless: That the committee authorise the publication of submission no. 22, 29 and 55, with the exception of potential adverse mention which is to remain confidential, as per the recommendation of the secretariat.

5.3 Confidential submissions

Resolved, on the motion of Mr Pearce: That the committee keep submission nos. 16, 24 and 42 and confidential, as per the request of the author, as they contain identifying and/or sensitive information.

5.4 *In camera* evidence

Resolved, on the motion of Mr Colless: That:

- Witness A to H appearing at 10.00am on Monday 12 December provide their evidence *in camera* and the committee consider publishing their transcript after the hearing
- Mr Denis Brown be allowed to provide a part of his evidence *in camera* and the committee consider publishing his transcript after the hearing.

5.5 Answers to questions on notice

The committee noted that witnesses will be requested to return answers to questions on notice and supplementary questions within 21 calendar days of the date on which questions are forwarded to witnesses.

5.6 Additional public hearing on 19 December

Resolved, on the motion of Mr Veitch: That the committee hold a third public hearing on Monday 19 December 2016 from 9.00 am until 11.00am to which the Minister for Primary Industries and relevant DPI officers be invited to attend.

5.7 Public hearing

Witnesses, the public and the media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings, adverse mention and other matters.

The following witness was sworn and examined:

- Mr Malcolm Poole, Fishing Safety Officer, Recreational Fishing Association.

The evidence concluded and the witness withdrew.

The public and media withdrew.

5.8 In camera hearing

The committee proceeded to take evidence *in camera*.

Persons present other than the committee: Beverly Duffy, Andrew Kiejda, Shaza Barbar and Hansard reporters.

The following witnesses were sworn and examined:

- Witness A
- Witness B
- Witness C
- Witness D
- Witness E
- Witness F
- Witness G
- Witness H.

Witness E tabled the following documents:

- 1 usb stick and envelope with information for the committee's consideration

The evidence concluded and the witnesses withdrew.

5.9 Resumption of public hearing

The committee proceeded to take evidence in public.

Witnesses, the public and the media were readmitted.

The following witnesses were sworn and examined:

- Mr Scott Hansen, Director General, Department of Primary Industries
- Mr Geoffrey Allan, Deputy Director General, DPI Fisheries
- Mr David McPherson, Group Director, Commercial Fisheries and Aquaculture, DPI Fisheries
- Mr Geoffrey Liggins, Supervising Scientist Rock Lobster, Fisheries Resources Assessment, DPI Fisheries.

Mr Liggins tendered the following documents:

- From doom to boom: The NSW Rock Lobster Fishery under Share Management
- Accompanying powerpoint presentation.

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Associate Professor Kathryn Barclay, Associate Professor, University of Technology.

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Mr Ian Cartwright, Member of the Structural Adjustment Review Committee
- Ms Sevaly Sen, Member of the Structural Adjustment Review Committee.

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Mr Rob Gauta, General Manager, Commercial Fishermen's Co-operative Limited (Newcastle).

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Mr Bryan Skepper, General Manager, NSW Seafood Industry Council.

Mr Skepper tendered the following documents:

- ‘The economic and social impact of Sydney Fish Market’, Deloitte Access Economics, 2016
- ‘A redeveloped Sydney Fish Market: enhancing its wider economic and social impacts’, Deloitte Access Economics, 2016
- Submission by the Sydney Fish Markets to the Productivity Commission Draft Report into Marine Fisheries and Aquaculture, undated

The evidence concluded and the witness withdrew.

The following witness (*appearing by teleconference*) was sworn and examined:

- Mr Nick Rayns, Executive Manager, Fisheries Management Branch, Australian Fisheries Management Authority.

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Professor Bob Kearney, Emeritus Professor, University of Canberra.

The evidence concluded and the witness withdrew.

The public and media withdrew.

The public hearing concluded at 4.45 pm.

5.10 Tendered documents

Resolved, on the motion of Mr Colless: That the committee accept and publish the following document(s) tendered during the public hearing:

- From doom to boom: The NSW Rock Lobster Fishery under Share Management and accompanying powerpoint presentation.

Furthermore, that the secretariat provide a copy of the material tendered by Witness E to Mr Colless and Mr Veitch for their consideration.

6. Additional witness

Resolved, on the motion of Mr Field: That Mr Grant Saunders be invited to appear before the committee on Monday 19 December at 11.15 am.

Resolved, on the motion of Mr Coless: That the committee agree to Mr Saunders’ request to allow the hearing to be filmed by a documentary filmmaker, subject to the filmmakers’ agreement to adhere to the broadcasting resolutions.

7. Deliberative date for interim/final report

Resolved, on the motion of Mr Colless: That the committee hold a deliberative meeting to discuss the interim or final report from 11.00 am to 12.30 pm on Tuesday 17 January 2016.

8. Next meeting

The committee adjourned at 4.57 pm until 9.30 am Wednesday 14 December 2016 (public hearing for commercial fishing inquiry).

Beverly Duffy
Clerk to the Committee

Minutes no. 26

Wednesday 14 December 2016

General Purpose Standing Committee No. 5

Jubilee Room, Parliament House, Sydney, at 9.32 am

1. Members present

Mr Brown, *Chair*

Mr Veitch, *Deputy Chair*

Mr Colless

Mr Farlow (substituting for Mr MacDonald)

Mr Field

Mr Graham

Mr Pearce

2. Draft minutes

Resolved, on the motion of Mr Veitch: That draft minutes no. 25 be confirmed.

3. Inquiry into commercial fishing**3.1 Public submissions**

The following submissions were published by the committee clerk under the authorisation of the resolution appointing the committee: submission nos. 58, 59, 60, 64, 65, 66, 67, 68, 72, 73, 74, 75, 76, 77, 78, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90 and 108.

3.2 Partially confidential submissions

Resolved, on the motion of Mr Colless: That the committee keep the identity of the authors of submission 61 and 71 confidential, as per the request of the authors.

Resolved, on the motion of Mr Colless: That the committee authorise the publication of submission no. 63 and 69 with the exception of potential adverse mention which is to remain confidential, as per the recommendation of the secretariat.

3.3 Confidential submissions

Resolved, on the motion of Mr Colless: That the committee submission nos. 57 and 62 remain confidential, as per the request of the authors, as they contain identifying and/or sensitive information.

3.4 Materials tendered by Witness E

Resolved, on the motion of Mr Veitch: That the committee write to Witness E returning the tendered materials and advising that Witness E should refer the materials to the relevant authority directly.

3.5 Additional witness

Resolved, on the motion of Mr Veitch: That the committee invite Ms Danielle Adams, General Manager, Clarence River Fishermen's Co-operative to appear before the committee on Monday 19 December in person or by teleconference.

3.6 Public hearing

Witnesses, the public and the media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings, adverse mention and other matters.

The following witnesses were sworn and examined:

- Mr Dane Van Der Neut, President, Wild Caught Fishers Coalition
- Ms Mary Howard, Secretary, Wild Caught Fishers Coalition
- Ms Heather Elliot, Member, Wild Caught Fishers Coalition
- Mr Garry Braithwaite, Member, Wild Caught Fishers Coalition
- Ms Tanya King, Senior Lecturer in Anthropology, Deakin University.

Ms Howard tendered the following documents:

- Submission to the Inquiry into Commercial Fishing in New South Wales, Wild Caught Fishers Coalition
- Pamphlet, Get the fishy facts on Sustainable NSW commercial fishing, Wild Caught Fishers Coalition
- Graph: Total NSW production by sector during the report period
- Seafood Directions Conference Report, The challenges with 'wild' harvesting fish for food. The NSW Example, Mary Howard, 29 October 2013
- Report, Aquatic ecosystem productivity relies on water managers and sustainable cities, Mary Howard, NSW Women's Industry Network Seafood Community, undated.

Mr Van Der Neut tendered the following documents:

- Wild Caught Fishers Coalition, Recommendations
- Infographic: Share management, prepared by Dane Van Der Neut
- Marine Policy, 'A Different Kettle of Fish: Mental health strategies for Australian fishers, and farmers', Tanya King, Sue Kilpatrick, Karen Willis and Christopher Speldewinde, 2015.

Ms Elliot tendered the following document:

- Pamphlet, NSW Commercial Fisheries Business Adjustment Program: Options to Enter, Stay or Exit, NSW Department of Primary Industries.

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Mr Lawrie McEnally, Chairman, Macleay River District Fishermen's Co-operative Limited.

The evidence concluded and the witnesses withdrew.

The following witnesses were examined on their former oath:

- Mr Dane Van Der Neut, President, Wild Caught Fishers Coalition
- Ms Mary Howard, Secretary, Wild Caught Fishers Coalition
- Ms Heather Elliot, Member, Wild Caught Fishers Coalition
- Mr Garry Braithwaite, Member, Wild Caught Fishers Coalition
- Ms Tanya King, Senior Lecturer in Anthropology, Deakin University.

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Mr Howard Elliott, Probity Advisor, APAC Probity.

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Ms Patricia Beatty, Executive Officer, Professional Fishermen's Association
- Mr Diago Bagnato, Chairman, Professional Fishermen's Association.

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Ms Daisy Barham, Campaigns Director, Nature Conservation Council.

Ms Barham tendered the following documents:

- Department of Primary Industries, Status of fisheries resources in NSW 2011-2012, 2014
- Marine Parks Independent Scientific Audit Panel, Report of the Independent Scientific Audit of Marine Parks in New South Wales, 2012
- Australian Marine Sciences Association, Position Statement on marine protected areas, 2012
- Marine Parks Authority New South Wales, A review of benefits of Marine Protected Areas and relating zoning considerations, 2008
- Research Paper, Reviewing the benefits of marine sanctuaries, Asia Armstrong, undated
- Survey of recreational fishing in New South Wales and the ACT, 2013/14, L. D. West, K. E. Stark, J. J. Murphy, J. M. Lyle and F. A. Ochwada-Doyle, NSW Department of Primary Industries, 2015

The evidence concluded and the witness withdrew.

The following witness (*appearing by teleconference*) was sworn and examined:

- Professor Steve Kennelly, Director, IC Independent Consulting.

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Mr Allan Hansard, Chief Executive Officer, Australian Fishing Trade Association
- Mr Damian Kerves, Vice President, Australian Fishing Trade Association and Chair, AFTA NSW Chapter.

Mr Hansard tendered the following document:

- Blog, American Sportfishing Association, 'President Obama signs Outdoor REC Act into law', 9 December 2016.

The evidence concluded and the witness withdrew.

The following witness (*appearing by teleconference*) was sworn and examined:

- Mr David Malone, Commercial fisher from the South Coast.

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Mr Dennis Brown, Commercial fisher from the Illawarra.

The public and media withdrew.

The public hearing concluded at 5.36 pm.

3.7 *In camera* hearing

Mr Brown continued to provide evidence to the committee *in camera*.

Persons present other than the committee: Beverly Duffy, Andrew Kiejda, Stephanie Galbraith, Shaza Barbar and Hansard reporters.

The evidence concluded and the witness withdrew.

The *in camera* hearing concluded at 6.00 pm.

3.8 Tended documents

Resolved, on the motion of Mr Farlow: That the committee accept and publish all documents tendered at the hearing, with the exception of the submission provided by the Wild Caught Fishers Coalition, which will remain confidential other than material from the submission to be included in the Committee's report.

4. Next meeting

The committee adjourned at 6.10 pm until 9.00 am Monday 19 December 2016 (public hearing for commercial fishing inquiry).

Beverly Duffy
Clerk to the Committee

Minutes no. 27

Monday 19 December 2016
General Purpose Standing Committee No. 5
Jubilee Room, Parliament House, Sydney, at 8.55 am

1. Members present

Mr Brown, *Chair*
Mr Veitch, *Deputy Chair*
Mr Colless
Mr Field
Mr Graham
Mr Pearce (from 8.58 am)
Dr Phelps (substituting for Mr MacDonald)

2. Draft minutes

Resolved, on the motion of Mr Veitch: That draft minutes no. 26 be confirmed.

3. Correspondence

The committee noted the following items of correspondence:

Received:

- 15 December 2016 – Email from Ms Mary Howard, Secretary, Wild Caught Fishers Coalition to the Chair, regarding the Wild Caught Fishing Coalition's attempts to forge better relationships with the PFA and to meet with the Minister.

4. Inquiry into commercial fishing

4.1 Public submissions

The following submissions were published by the committee clerk under the authorisation of the resolution appointing the committee: submission nos. 91, 92, 94, 95 and 101.

4.2 Partially confidential submissions

Resolved, on the motion of Mr Colless: That the committee authorise the publication of submission no. 117 with the exception of potential adverse mention, which is to remain confidential as per the recommendation of the secretariat and/or request of the author.

Resolved, on the motion of Mr Veitch: That the committee authorise the publication of submission no. 96 with the exception of potential adverse mention, which is to remain confidential as per the recommendation of the secretariat and/or request of the author.

4.3 Questions on notice

Resolved, on the motion of Dr Phelps: That answers to questions on notice and supplementary questions be provided within 18 calendar days of the date on which questions are forwarded to the witnesses at today's hearing.

4.4 In camera hearing request

Resolved, on the motion of Mr Colless: That the committee take evidence from Minister Niall Blair MLC and Mr Scott Hansen *in camera* for the last 20 minutes of their allocated time.

4.5 Public hearing

Witnesses, the public and the media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings, adverse mention and other matters. The Chair noted that members of Parliament swear an oath to their office, and therefore do not need to be sworn prior to giving evidence before a committee.

- The Hon Niall Blair MLC, Minister for Primary Industries, Land and Water was admitted and examined.

The following witness was examined on their former oath:

- Mr Scott Hansen, Director General, Department of Primary Industries

The public and media withdrew.

The public hearing concluded at 10.40 am.

4.6 In camera hearing

Minister Blair and Mr Hansen continued to provide evidence to the committee *in camera*.

Persons present other than the committee: Beverly Duffy, Stephanie Galbraith, Shaza Barbar, Dr Geoffrey Allan, Mr Brett Fifield and Hansard reporters.

The evidence concluded and the witnesses withdrew.

The *in camera* hearing concluded at 11.05 am.

4.7 Resumption of public hearing

Witnesses, the public and the media were readmitted.

The following witnesses were sworn and examined:

- Mr Grant Saunders, Aboriginal commercial fisher
- Mr Raymond Saunders, Aboriginal commercial fisher.

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Ms Danielle Adams, General Manager, Clarence River Fishermen's Co-operative.

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Mr Paul Heron, Commercial fisher from the Illawarra.

Mr Heron tendered the following documents:

- Letters to Mr Heron and Minister Niall Blair MLC from Mr Gareth Ward MP, dated 15 September 2016
- Letter to Mr Gareth Ward MP from Minister Niall Blair MLC, dated 8 December 2016.

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Ms Tisha Limon, Co-owner, Nautilus Fisheries
- Mr Brendon Limon, Co-owner, Nautilus Fishers.

The evidence concluded and the witness withdrew.

The public and media withdrew.

The public hearing concluded at 1.22 pm.

4.8 Tendered documents

Resolved, on the motion of Mr Colless: That the committee accept and publish the following document tendered during the public hearing:

- Letters to Mr Heron and Minister Niall Blair MLC from Mr Gareth Ward MP, dated 15 September 2016, tendered by Mr Heron
- Letter to Mr Gareth Ward MP from Minister Niall Blair MLC, dated 8 December 2016, tendered by Mr Heron.

5. Next meeting

The committee adjourned at 1.30 pm until 11.00 am Tuesday 17 January 2016 (interim report deliberative for commercial fishing inquiry).

Beverly Duffy
Clerk to the Committee

Draft minutes no. 28

Monday 20 February 2017

General Purpose Standing Committee No. 5

Room 1136, Parliament House, 10.06 am

1. Members present

Mr Brown, *Chair*

Mr Veitch, Deputy Chair

Mr Colless

Mr Field

Mr Graham

Mr MacDonald

Mr Pearce

2. Previous minutes

Resolved, on the motion of Mr Pearce: That minutes no. 27 be confirmed.

3. Correspondence

The committee noted the following items of correspondence:

Received:

- 15 February 2017 – Email from Mr David McPherson, Group Director, Commercial Fisheries and Aquaculture, Department of Primary Industries, to the secretariat, providing information regarding the Small Business Commissioner’s involvement in the Business Adjustment Program
- 9 February 2017 – Email from Ms Mary Howard, Secretary, Wild Caught Fishers Coalition, to secretariat, assessing evidence from the inquiry into commercial fishing
- 3 February 2017 – Letter from Hon Niall Blair MLC, Minister for Primary Industries, to the Chair, responding to letter regarding share allocation
- 26 January 2017 – Email from Ms Mary Howard, Secretary, Wild Caught Fishers Coalition, to the Chair and Deputy Chair, regarding evidence given to the committee by other witnesses
- 26 January 2017 – Email from Mr David McPherson, Group Director, Commercial Fisheries and Aquaculture, Department of Primary Industries, to the secretariat, attaching advance copy of registration packs to be sent to fishing business owners
- 25 January 2017 – Letter from Mr Barry Aish, to the Chair, responding to letter circulated to stakeholders on 4 January 2017
- 12 January 2017 – Email from Mr David Mehan, MP, Member for The Entrance to the Chair, attaching a research brief on country of origin labelling and agreeing for the committee to use it
- 10 January 2017 – Letter from Mr Ron Snape, to the committee, attaching complaint regarding racial discrimination dated 2 April 2005
- 10 January 2017 – Letter from Mr David Mehan MP, Member for The Entrance, to the Chair, suggesting that fishers should be allocated shares from the state if they cannot meet the costs of the share requirements
- 10 January 2017 – Letter from Ms Tanya King, Lecturer in Anthropology, Deakin University, to the committee, providing additional information to clarify evidence she provided to the committee on 14 December 2016
- 9 January 2017 – Letter from Ms Patricia Beatty, Executive Officer, Professional Fishers Association, to the committee, correcting evidence she provided to the committee on 14 December 2016
- 5 January 2017 – Email from Ms Caroline Baker, to the Chair, regarding inquiry into commercial fishing
- 5 January 2017 – Email from Mr Ron Snape, to the Chair, regarding the inquiry into commercial fishing
- 22 December 2016 – Email from Ms Petrina Apfel, Senior Policy Advisor, Office of the Hon. Niall Blair, Minister for Primary Industries, to the Secretariat, regarding DPI’s communication with Mr Saunders.

Sent:

- 10 January 2017 – Letter from the Chair, to the Hon Niall Blair MLC, Minister for Primary Industries, attaching letter from Mr David Mehan MP, Member for The Entrance, regarding share allocation
- 4 January 2017 – Letter from the Chair, to commercial fishing inquiry stakeholders, informing stakeholders of the committee’s preliminary position about the reforms
- 22 December 2016 – Letter from Chair, to Mr Geoff Blackburn, returning tabled documents from hearing on 12 December 2016
- 21 December 2016 – Letter from secretariat, to Hon Niall Blair MLC, Minister for Primary Industries, and Mr Scott Hansen, Director General, Department of Primary Industries, enclosing *in camera* transcript for review

- 16 December 2016 – Letter from secretariat, to Mr Denis Brown, enclosing *in camera* transcript for review
- 15 December 2016 – Letter from secretariat, to Mr Troy Billin, enclosing *in camera* transcript for review
- 15 December 2016 – Letter from secretariat, to Mr Geoff Blackburn, enclosing *in camera* transcript for review
- 15 December 2016 – Letter from secretariat, to Mr Gary Bordin, enclosing *in camera* transcript for review
- 15 December 2016 – Letter from secretariat, to Mr Graeme Byrnes, enclosing *in camera* transcript for review
- 15 December 2016 – Letter from secretariat, to Mr Ross Fidden, enclosing *in camera* transcript for review
- 15 December 2016 – Letter from secretariat, to Mr Greg Golby, enclosing *in camera* transcript for review
- 15 December 2016 – Letter from secretariat, to Mr Gary Joblin, enclosing *in camera* transcript for review
- 15 December 2016 – Letter from secretariat, to Mr Darren Ward, enclosing *in camera* transcript for review.

Resolved, on the motion of Mr Veitch: That the committee note that Mr Veitch was not available to give his approval for letter to stakeholders of 4 January 2017, as he was on leave at the time and not contactable.

Resolved, on the motion of Mr Veitch: That the committee authorise the publication of correspondence from:

- Mr David McPherson, Group Director, Commercial Fisheries and Aquaculture, Department of Primary Industries, to the secretariat, attaching advance copy of registration packs to be sent to fishing business owners, dated 26 January 2016
- Mr David Mehan MP, Member for The Entrance, to the Chair, suggesting that fishers should be allocated shares from the state if they cannot meet the costs of the share requirements, dated 10 January 2017
- Hon Niall Blair MLC, Minister for Primary Industries, to the Chair, responding to letter regarding share allocation, dated 3 February 2017
- Mr David McPherson, Group Director, Commercial Fisheries and Aquaculture, Department of Primary Industries, to the secretariat, providing information regarding the Small Business Commissioner's involvement in the Business Adjustment Program, dated 15 February 2017.

4. Inquiry into commercial fishing in New South Wales

4.1 Public submissions

The following submissions were published by the committee clerk under the authorisation of the resolution appointing the committee: submission nos. 30a, 35a, 37, 39, 46, 47, 60a, 74a, 79a, 93, 98a, 102-107, 109-111, 113-115, 118-126, 127a, 128-136, 138, 141, 142, 144-146, 151-168 and 170.

4.2 Partially confidential submissions

Resolved, on the motion of Mr Colless: That the committee keep the identity of the authors of submission nos. 97, 97a, 100, 116, 143 and 148 confidential.

Resolved, on the motion of Mr Colless: That the committee authorise the publication of submission no. 38, with the exception of identifying and/or sensitive information which are to remain confidential, as per the recommendation of the secretariat.

Resolved, on the motion of Mr Colless: That the committee authorise the publication of submission nos. 3a, 112, 127, 137, 139 and 140 with the exception of potential adverse mention which is to remain confidential, as per the recommendation of the secretariat.

4.3 Confidential submissions

Resolved, on the motion of Mr MacDonald: That the committee keep submission nos. 46a, 146a, 147, 149, 150 and 169 confidential, as per the request of the author.

4.4 Attachments to submission 79

Resolved, on the motion of Mr Colless: That the committee authorise the publication of all attachments to submission 79 (NSW Department of Primary Industries).

4.5 Publication of in camera transcripts

Resolved, on the motion of Mr Colless: That the committee authorise the publication of the *in camera* transcripts from 12 December 2016, 14 December 2016 and 19 December 2016, excluding redacted content as agreed by the witnesses and the committee, which is to remain confidential

4.6 Clarifications to evidence

Resolved, on the motion of Mr Colless: That the committee authorise:

- the publication of correspondence from Ms Patricia Beatty, Executive Officer, Professional Fishers Association, dated 9 January 2017, to the committee, correcting evidence she provided to the committee on 14 December 2016
- the publication of correspondence from Ms Tanya King, Lecturer in Anthropology, Deakin University, dated 10 January 2017, to the committee, providing additional information to clarify evidence she provided to the committee on 14 December 2016.
- the addition of footnotes to the evidence of Ms Patricia Beatty, 14 December 2016 and Ms Tanya King, 14 December 2016 reflecting their clarification of evidence.

4.7 Answers to questions on notice and supplementary questions

The following answers to questions on notice and supplementary questions were published by the committee clerk under the authorisation of the resolution appointing the committee:

- answers to questions on notice and supplementary questions from Department of Primary Industries, received 16 December 2016, 23 December 2016, 9 January 2017 and 10 January 2017 (*questions taken on notice and supplementary questions from public hearings*)
- answers to questions on notice from Ms Daisy Barham, Campaigns Director, Nature Conservation Council, received 13 January 2017
- Answers to questions on notice and supplementary questions from Wild Caught Fishers Coalition, received 10 January 2017
- answers to supplementary questions from Ms Patricia Beatty, Executive Officer, Professional Fishermen's Association, received 9 January 2017
- Answers to questions on notice from Mr Ian Cartwright and Ms Sevaly Sen, Structural Adjustment Review Committee, received 9 January 2017
- answers to questions on notice from Professor Bob Kearney, Emeritus Professor of Fisheries, Institute for Applied Ecology, University of Canberra, received 6 January 2017
- answers to supplementary questions from Mr Grant Saunders and Mr Raymond Saunders, received 4 January 2017
- answers to questions on notice from Associate Professor Kathryn Barclay, Associate Professor of International Studies, UTS, received 16 December 2016.

Resolved, on the motion of Mr Veitch: That answers to supplementary questions from Mr Gary Joblin, received 23 December; Mr Troy Billin, received 9 January 2017; Mr Geoff Blackburn, received 9 January 2017; Mr Gary Bordin, received 9 January 2017; Mr Graeme Byrnes, received 9 January 2017; and Mr Ross Fidden, received 9 January 2017 be published, subject to their agreement, and to the secretariat reviewing the documents for adverse mention.

Resolved, on the motion of Mr Veitch: That answers to questions on notice from Ms Patricia Beatty, Professional Fishermen's Association, received 9 January 2017, and answers to questions on notice and

supplementary questions from Mr Howard Elliott, APAC Probity Advisor and Auditing Consultants, received 9 January 2017, be kept confidential as per the request of the authors.

Resolved, on the motion of Mr Veitch: That answers to questions on notice from the Department of Primary Industries, received 9 January 2017, be published.

Resolved, on the motion of Mr Veitch: That attachments of answers to questions on notice and supplementary questions from Wild Caught Fishers Coalition, received 10 January 2017, be published, with the exception of a set of draft minutes.

4.8 Consideration of Chair's draft report

The Chair submitted his draft report entitled *Commercial fishing in New South Wales*, which, having been previously circulated, was taken as being read.

Chapter 1 – The Business Adjustment Program

Resolved on the motion of Mr Veitch: That paragraph 1.12 be amended by inserting ‘(\$14 million from the State Government and \$2 million from the commercial fishing industry)’ after ‘\$16 million Adjustment Subsidy Program.’

Resolved on the motion of Mr Field: That the following new paragraph be inserted after paragraph 1.13:

‘Applications for the fishing buyout scheme closed on 30 January 2017.’

Resolved on the motion of Mr Veitch: That the committee include a footnote at paragraph 1.17.

Resolved on the motion of Mr Veitch: That Table 1 be amended by omitting ‘10 February 2017’ and inserting ‘17 February 2017’, subject to the secretariat checking this date with the department.

Mr Field moved: That the following new committee comment and recommendation be inserted after Table 1:

‘Committee comment

The committee recognises the complexity of the Business Adjustment Program for many fishers and the challenge in making decisions. We consider it appropriate to re-open applications for the fishing buyout and keep them open until closer to the start of the subsidised share trading market to give fishers the maximum amount of time to consider their options.

Recommendation X

That the NSW Department of Primary Industries re-open applications for the fishing business buyout and keep them open until closer to the start of the subsidised share trading market.’

Question put.

The committee divided.

Ayes: Mr Brown, Mr Field, Mr Graham, Mr Veitch.

Noes: Mr Colless, Mr Pearce, Mr MacDonald.

Question resolved in the affirmative.

Resolved, on the motion of Mr Veitch: That paragraph 1.22 be amended by inserting ‘Poor communication from DPI – Fisheries was also raised as a concern, this is discussed further in chapter 2.’ at the end of the paragraph.

Resolved, on the motion of Mr Veitch: That the following new paragraph be inserted after paragraph 1.45:

‘The committee also heard testimony from Associate Professor Kathryn Barclay from the School of International Studies, UTS who conducted a study from 2014 to 2016 to evaluate the contribution of professional fisheries to NSW coastal communities which determined that the NSW professional fishing industry contributes more than \$436 million in revenue annually.’

Mr Veitch moved: That the following new paragraph be inserted after paragraph 1.46:

‘Committee comment

The committee is concerned, however, that the Government has sought to simplify a complex industry to just a matter of sustainability. At no time has the sustainability of commercial fishing in NSW been raised as a critical issue. Rather, it is the structural and commercial impacts of the Government’s proposed reforms, the lack of financial commitment by Government, as well as uncertainty over the science and economic impacts of the proposed reform path, that lay at the heart of the concerns held by many commercial fishers.

The timing and rationale behind the particular reform path adopted by the Government is questionable and needs further independent assessment before proceeding.’

Question put.

The committee divided.

Ayes: Mr Field, Mr Graham, Mr Veitch.

Noes: Mr Brown, Mr Colless, Mr MacDonald, Mr Pearce.

Question resolved in the negative.

Resolved, on the motion of Mr Graham: That the following paragraphs be inserted after paragraph 1.41:

‘According to the department, the IAP is being used where new shares and quota are being created. At present this will be for 18 species or species groups. The IAP process will apply where there is likely to be an unacceptable distortion if new shares were allocated evenly across the shareholders.

A hypothetical example might be that fishers in the hand gathering share class are all entitled to catch pipis but they really are only caught by two or 3 fishers.

If we distributed the shares and quota evenly to all shareholders then the 2 or 3 fishers would have to buy all the other shares or quota in order to keep fishing at the same levels.

In these instances the department will be asking the IAP to develop a fair process to allocate the shares amongst the fishers that catch those species. Fishers will be provided an opportunity to explain to the IAP their views and evidence to support how shares and quota should be allocated. [FOOTNOTE: email correspondence from Mr David Mc Pherson, Group Director, Commercial Fisheries & Aquaculture Fisheries NSW Department of Primary Industries, to the secretariat, 15 February 2017.]

‘Committee comment

The committee notes that until the Independent Allocation Panel process has been completed for the remaining classes of fish, it is difficult for those fishers to make share decisions. These fishers are suffering significant uncertainty and will continue to do so until the arrangements for the new species shares have been finalised in July 2018. It is also difficult for the department to make management decisions and to assess the level of assistance that these businesses may require.

We therefore recommend that the Independent Allocation Panel process be fast tracked to ensure that at the very least, the government adheres to the July 2018 deadline for shares to be issued to these classes. We also suggest that the panel announce the Total Allowable Catch for each individual share class rather than wait until all of the relevant share classes have been assessed by the IAP. If necessary, the IAP should be provided with additional resources to facilitate this fast tracking.

Subsidised share trading should not commence for any of these affected IAP share classes in May 2017 but should commence as soon as the Total Allowable Catch and share allocation arrangements for each of those individual classes are known.

Recommendation X:

That the NSW Government fast track the Independent Allocation Panel process where possible, providing the additional resources necessary to ensure that the published timeframes of July 2018 are met for all remaining share classes.’

Resolved, on the motion of Mr Veitch: That paragraph 1.55 be amended by inserting 'before the Business Adjustment Program can continue' after 'must be urgently resolved'.

Mr Veitch moved: That Recommendation 1 be amended by inserting 'Suspend the Business Adjustment Program' after 'the Minister for Primary Industries'.

Question put.

The committee divided.

Ayes: Mr Graham, Mr Veitch.

Noes: Mr Brown, Mr Colless, Mr Field, Mr MacDonald, Mr Pearce.

Question resolved in the negative.

Resolved on the motion of Mr Veitch: That Recommendation 1 be amended by inserting the following new dot point after 'the subsidised share trading market':

- o appoint a separate probity auditor to review the role and involvement of the Structural Adjustment Review Committee in addressing potential conflicts of interests.

Resolved, on the motion of Mr Graham: That paragraph 1.58 be amended by omitting 'This research was consistent with evidence presented to the inquiry and' before 'representatives of the co-ops identified'.

Resolved, on the motion of Mr Graham: That paragraph 1.62 be amended by omitting 'The committee has noted the concerns identified by those representing co-ops and is of the opinion that the government assistance being provided at this time is merited and commensurate with the risk and uncertainty facing these businesses at this time', and inserting instead:

'The committee notes the concerns identified by those representing co-ops and is of the opinion that government assistance is merited but should be commensurate with the risk and uncertainty facing these businesses at this time such that no co-op is forced to close as a consequence of the government's Business Adjustment Program.'

Mr Graham moved: That the following committee comment be inserted after paragraph 1.62:

'Committee comment

The committee has been presented with the view that co-ops would close as a result of this reform despite the existing levels of government funding. Accordingly it urges the government to increase this assistance package, including but not limited to, doubling the size of the business development grants.'

Question put and negatived.

Resolved, on the motion of Mr Graham: That paragraph 1.63 be amended by omitting 'However,' before 'the committee believes that'.

Resolved, on the motion of Mr Veitch: That paragraph 1.63 be amended by inserting 'and a copy provided to GPSC 5' at the end of the sentence.

Resolved, on the motion of Mr Colless: That Recommendation 2 be omitted: 'That the NSW Department of Primary Industries:

- o Undertake a rolling review of the impact of the Business Adjustment Program on the viability of fishing co-operatives
- o Publish the findings of this review.'

Resolved, on the motion of Mr Colless that the following new recommendation be inserted after recommendation 5:

'Recommendation X

That the NSW Government require the NSW Commercial Fishing Advisory Council (CommFish), in consultation with NSW Fishing Co-ops Association, to report to Parliament on the progress of the commercial fishing reform process over the reform period, on an annual basis.'

Mr Veitch moved: That paragraph 1.74 be amended by omitting 'We therefore recommend that arrangements be confirmed by April 2017 and that details regarding the Commissioner's role and responsibilities be published widely so that the industry has sufficient time to make use of these services', and inserting instead:

'Committee comment

That the NSW DPI - Fisheries suspend the Business Adjustment Program until the Small Business Commissioner consults with industry, assesses the impacts on small fishing businesses, and makes a report publicly available on strategies to mitigate adverse impacts on small fishing businesses.'

Question put.

The committee divided.

Ayes: Mr Field, Mr Graham, Mr Veitch.

Noes: Mr Brown, Mr Colless, Mr MacDonald, Mr Pearce.

Question resolved in the negative.

Resolved, on the motion Mr Field: That paragraph 1.75 be amended by inserting 'The committee also recognises the complexity of the reform and the costs associated with obtaining business specific financial and trading/legal advice. In this regard we recommend increasing the grants available for both to \$2,000.' at the end of the paragraph.

Resolved, on the motion of Mr Field: That Recommendation 4 be amended by inserting at the end: 'and increase the grant limit for both legal and financial advice to \$2,000'.

Resolved, on the motion of Mr Graham: that the following new committee comment and recommendation be inserted after paragraph 1.75:

'Committee comment

The committee notes that for those fishers who leave the industry, in some instances the retraining assistance will not be sufficient for them to regain employment. The department should consider individual case management in these circumstances.

Recommendation X

That the Department of Primary Industries ensure that individual case management is offered to fishers who leave the industry and for whom retraining assistance is not sufficient to regain employment.'

Mr Graham moved: That the following new committee comment and recommendation be inserted after the new committee comment and recommendation inserted after paragraph 1.75:

'Committee comment

In such cases the Small Business Commissioner should recommend an appropriate way to allow cross government co-ordination of any opportunities that exist for matching with relevant public sector job vacancies.

Recommendation X

In such cases the Small Business Commissioner should recommend an appropriate way to allow cross government co-ordination of any opportunities that exist for matching with relevant public sector job vacancies.'

Question put.

The committee divided.

Ayes: Mr Field, Mr Graham, Mr Veitch.

Noes: Mr Brown, Mr Colless, Mr MacDonald, Mr Pearce.

Question resolved in the negative.

Resolved, on the motion of Mr Graham: That the following new recommendation be inserted after Recommendation 3:

‘Recommendation X

That the NSW Department of Primary Industries assess the level of assistance to fishing co-operatives.’

Resolved, on the motion of Mr Veitch: that the following new committee comment be inserted after paragraph 1.85:

‘Committee comment

The committee believes that further work needs to be undertaken on strategies to buy out latent effort and to ensure those receiving buy out packages cannot re-enter the industry for a determined period.’

Mr Veitch moved: That the following new committee comment be inserted after paragraph 1.85:

‘Committee comment

The Business Adjustment Package should be suspended until a thorough assessment of the impact of purchasing latent effort is undertaken by the Government.’

Question put.

The committee divided.

Ayes: Mr Field, Mr Graham, Mr Veitch.

Noes: Mr Brown, Mr Colless, Mr MacDonald, Mr Pearce.

Question resolved in the negative.

Mr Veitch moved: That paragraph 1.84 be amended by omitting ‘But in this respect, the committee agrees with the Minister that ‘business as usual’ is not an option. Further delay to the implementation of the Business Adjustment Program will only exacerbate uncertainty and further threaten the precarious state of the sector.’, and inserting instead:

‘Committee comment

While the Committee received evidence of “reform fatigue” among commercial fishers there was also a view that the reform process should be paused until improved communication with the sector could be implemented and greater dialogue with the industry conducted to develop a better way forward.’

Question put.

The committee divided.

Ayes: Mr Field, Mr Graham, Mr Veitch.

Noes: Mr Brown, Mr Colless, Mr MacDonald, Mr Pearce.

Question resolved in the negative.

Mr Veitch moved: That paragraph 1.85 be omitted: ‘The committee therefore recommends that the Department of Primary Industries continues to implement the Business Adjustment Program, as per the published timeframes, subject to accepting the recommendations in this report, which are designed to address the shortcomings of the reform program identified during the inquiry.’

Question put.

The committee divided.

Ayes: Mr Field, Mr Graham, Mr Veitch.

Noes: Mr Brown, Mr Colless, Mr MacDonald, Mr Pearce.

Question resolved in the negative.

Resolved, on the motion of Mr Veitch: That paragraph 1.86 be omitted: ‘Notwithstanding the committee’s recommendation for the Business Adjustment Program to continue, this does not equate to an uncritical

endorsement of the government's structural reform program; even the Minister acknowledges the serious problems with the program and in particular the way the department has communicated with the industry', and that the following new committee comment be inserted instead:

'Committee comment

The committee notes the Minister's acknowledgement of the serious challenges with the program and in particular the way the department has communicated with the industry. In light of the Ministers acknowledgement the committee is of the view that further assessment of options and strategies to mitigate adverse impacts on the industry and their communities should be expedited.'

Mr Veitch moved: That Recommendation 5 be omitted: 'That the NSW Department of Primary Industries continue to implement the Business Adjustment Program in accordance with the published timeframes', and the following new recommendation be inserted instead:

'Recommendation X

That the NSW DPI suspend the Business Adjustment Program until it fully investigates options such as staircasing reform so that historic catch can be considered along with new quota requirement, and makes such investigations and recommendations publicly available to the commercial fishing industry and GPSC 5.'

Question put.

The committee divided.

Ayes: Mr Field, Mr Graham, Mr Veitch.

Noes: Mr Brown, Mr Colless, Mr MacDonald, Mr Pearce.

Question resolved in the negative.

Mr Colless moved, that Recommendation 6 be omitted: 'That General Purpose Standing Committee No. 5 conduct an inquiry in early 2018 into the NSW Government's response to the recommendations within this report, and the progress of the commercial fishing reform process.'

Question put.

The committee divided.

Ayes: Mr Brown, Mr Colless, Mr MacDonald, Mr Pearce.

Noes: Mr Graham, Mr Veitch.

Question resolved in the affirmative.

Chapter 2 – Related industry reform issues

Resolved, on the motion of Mr Graham: That the following new paragraph be inserted after paragraph 2.9:

'DPI also advised, Of the 138 staff who worked at Cronulla Fisheries Research Centre, 117 worked for DPI Fisheries. This included scientists, technical staff, admin support, licensing staff and fisheries managers. Approximately 50 per cent of these DPI staff relocated to new locations following the closure of the Cronulla Fisheries Research Centre.' [FOOTNOTE: Answers to supplementary questions, Department of Primary Industries, received 10 January 2017, p 1.]

Resolved, on the motion of Mr Graham: That the following new committee comment be inserted after paragraph 2.38:

'Committee comment

The committee notes with concern the increase in fish species with an 'undefined' or 'uncertain' exploitation status, and the intermittency of comprehensive fisheries assessments in recent years.'

Mr Graham moved: That the following new paragraph be inserted after paragraph 2.40:

‘Committee comment

The committee notes that the Government did not act on Recommendation 1 of the Legislative Council Select Committee on Cronulla Fisheries ‘That the NSW Government reverse the decision to close Cronulla Fisheries Research Centre of Excellence and not proceed with the closure.’ The committee is concerned that the closure of the Cronulla Fisheries Research facility has impacted on the science available to guide decisions about NSW fisheries resources.’

Question put.

The committee divided.

Ayes: Mr Field, Mr Graham, Mr Veitch.

Noes: Mr Brown, Mr Colless, Mr MacDonald, Mr Pearce.

Question resolved in the negative.

Mr Veitch moved: That paragraph 2.59 be omitted ‘Even though the reform process has already commenced, it still has a way to go and we should not let this opportunity pass. We therefore urge the department to commission a Social Impact Assessment as soon as practicable, on the understanding that it will not further delay the reform timeline’ and the following committee comment be inserted instead:

‘Committee comment

It is critical that a Social Impact Assessment be conducted and findings made publicly available before the reform programme can proceed. We therefore recommended that the Business Adjustment Programme be suspended until a Social Impact Assessment is carried out and its findings made publicly available.’

Question put.

The committee divided.

Ayes: Mr Field, Mr Graham, Mr Veitch.

Noes: Mr Brown, Mr Colless, Mr MacDonald, Mr Pearce.

Question resolved in the negative.

Mr Veitch moved: That Recommendation 10 be omitted: ‘That the NSW Department of Primary Industries commission a Social Impact Assessment of the Business Adjustment Program on commercial fishers in New South Wales’, and the following new recommendation be inserted instead:

‘Recommendation X

That NSW Government suspend the Business Adjustment Program until such time as a Social Impact Assessment is conducted and the findings made publicly available.’

Question put.

The committee divided.

Ayes: Mr Field, Mr Graham, Mr Veitch.

Noes: Mr Brown, Mr Colless, Mr MacDonald, Mr Pearce.

Question resolved in the negative.

Resolved, on the motion of Mr Veitch: That recommendation 10 be amended by inserting at the end: ‘and make the findings of the assessment public’.

Resolved, on the motion of Mr Field: That paragraph 2.80 be amended by inserting ‘The report identified New South Wales as the only state without a peak industry body for the commercial fishing industry. Government support, including direct financial support, exists in other states by way of administrative or extension support and/or consultation contracts’ after ‘MacDonald noted that while most funding should come from licence holders in the commercial fishing industry, there was some scope for government funding’.

Resolved, on the motion of Mr Field: That paragraph 2.89 be omitted: ‘There is a pressing need for a peak industry body. To remain independent and effective in its advocacy, we suggest that this group should be driven by industry. We encourage the industry to seek advice on the formation of such a group from peak industry bodies from other industries’, and the following new paragraph be inserted instead:

‘There is a pressing need for a peak industry body for the commercial fishing sector to guide the implementation of the reform and for future engagement with the NSW Government. It is in the interest of government to support and aid the formation of a peak industry body to assist in ongoing consultation that will be required between government and industry to implement the reforms and rebuild trust.’

Resolved, on the motion of Mr Field: That the following new recommendation be inserted after Recommendation 11

‘Recommendation X

That the NSW Government assist industry to establish a peak body for commercial fishing in New South Wales.’

Resolved, on the motion of Mr Colless: That paragraph 2.86 be amended by:

- a) omitting ‘woefully’ before ‘poor level of trust and respect’
- b) omitting ‘between fishers themselves’ and inserting instead ‘among fishers themselves’.

Resolved, on the motion of Mr Veitch: That paragraph 2.87 be amended by omitting ‘Accordingly’ before ‘the committee welcomes’.

Resolved, on the motion of Mr Field: That paragraph 2.87 be amended by inserting ‘and with the active involvement of fishers,’ after ‘strong governance structures’.

Resolved, on the motion of Mr Field: That paragraph 2.88 be amended by inserting at the end: ‘recognising that there should also be a commercial fishing representative on the recreational fishing advisory committee.’

Mr Graham moved: That the following new committee comment be inserted after paragraph 2.88:

‘The unusual decision to commence a major reform process without a ministerial advisory body, especially given the absence of a peak industry body, is now in the process of being rectified. This decision of the Minister is supported. Until that has occurred, the Business Adjustment Program should be suspended.’

Question put.

The committee divided.

Ayes: Mr Field, Mr Graham, Mr Veitch.

Noes: Mr Brown, Mr Colless, Mr MacDonald, Mr Pearce.

Question resolved in the negative.

Mr Graham moved: That the following new recommendation be inserted after Recommendation 11:

‘Recommendation X

That until these important steps have been concluded, the Business Adjustment Program should be suspended.’

Question put.

The committee divided.

Ayes: Mr Field, Mr Graham, Mr Veitch.

Noes: Mr Brown, Mr Colless, Mr MacDonald, Mr Pearce.

Question resolved in the negative.

Resolved, on the motion of Mr MacDonald: That Recommendation 11 be amended by:

- a) omitting ‘following a transparent recruitment process’ after ‘That the Minister for Primary Industries establish the Commercial Fishing Advisory Council (CommFish NSW) by July 2017’
- b) inserting instead ‘using the NSW Guidelines for Boards and Committees’
- c) omitting ‘which provides for’ before ‘wide representation from the industry’ and inserting instead ‘which includes’.

Resolved, on the motion of Mr Veitch, that the following words be added to the new recommendation proposed by Mr Field to follow recommendation 11, regarding a new peak body

- ‘with sustainable funding streams to strengthen the reform process, improve communication within the industry, and enhance industry input into the future management of fisheries in NSW’.

Mr Graham moved that the following new paragraph and recommendation be inserted after paragraph 2.90:

‘Committee comment

Given the scale of this reform, the committee is concerned at the suggestion that the cost of supporting the establishment of a peak advisory body may have been a reason for not ministerial advisory body. The cost to the industry, the environment and the community of not getting these reforms right could be very substantial. Resourcing support for a peak industry body should be commensurate with these risks.

Recommendation X

The committee recommends to the Small Business Commissioner that any future decisions about resourcing support for a peak industry body should be commensurate with the risks to the industry, the environment and the community of not getting these reforms right.’

Question put.

The committee divided.

Ayes: Mr Field, Mr Graham, Mr Veitch.

Noes: Mr Brown, Mr Colless, Mr MacDonald, Mr Pearce.

Question resolved in the negative.

Resolved, on the motion of Mr Colless: That paragraph 2.100 be amended by:

- a) omitting ‘While the’ and inserting instead ‘The’
- b) omitting the word ‘fisherman’ and inserting instead ‘fishers’ before ‘who are concerned about the Business Adjustment Program’
- c) inserting after ‘Business Adjustment Program’:

‘including consideration of the continuation of permits in certain circumstances for Aboriginal fishers (a grandfathered fishing permit system ceased operation on 31 December 2016).’
[FOOTNOTE: Evidence, The Hon Niall Blair, Minister for Primary Industries, 19 December 2016, p 5, published *in camera* evidence.]
- d) omitting ‘the government is not considering a separate or protected share class for Aboriginal commercial fishers. The department also expects that the Aboriginal Commercial Fishing Trust might assist fishers affected by the reforms’
- e) inserting instead ‘The government is not considering a separate or protected share class for Aboriginal commercial fishers, but the department expects that the Aboriginal Commercial Fishing Trust might assist fishers affected by the reforms’.

Resolved, on the motion of Mr Colless: That Recommendation 13 be omitted and the following new recommendation be inserted instead:

‘Recommendation X

That the Department of Primary Industries give further consideration to the continuation of permits in certain circumstances for Aboriginal commercial fishers.’

Mr Field moved: That Recommendation 12 be amended by inserting the words ‘and sufficiently funded and authorised to purchase commercial fishing shares’ after ‘fully operational’.

Question put.

The committee divided.

Ayes: Mr Field.

Noes: Mr Brown, Mr Colless, Mr Graham, Mr MacDonald, Mr Pearce, Mr Veitch.

Question resolved in the negative.

Mr Field moved: That paragraph 2.112 be amended by inserting at the end: ‘The announcement included a commitment to funding people to get certified through Oceanwatch’s Master Fisher Program.’

Question put.

The committee divided.

Ayes: Mr Field, Mr Graham, Mr Veitch.

Noes: Mr Brown, Mr Colless, Mr Pearce, Mr MacDonald.

Question resolved in the negative.

Resolved, on the motion of Mr Veitch: That paragraph 2.113 be amended by inserting ‘and commence implementation of a labelling scheme with any necessary funding for successful implementation’ after ‘features of such scheme’.

Resolved, on the motion of Mr Veitch: That Recommendation 14 be amended by inserting ‘and commence implementation of a labelling scheme with any necessary funding’ after ‘seafood sold for immediate consumption’.

Mr Field moved: That the following new committee comment be inserted after paragraph 2.113:

‘Committee comment

In addition to country of origin labelling, the committee considers that there is merit in the idea of the creation and promotion of a New South Wales seafood label as part of the Government’s planned community awareness program and funding to certify fishers through the Oceanwatch Master Fisher Program. The currently funding commitment of \$400,000 does not seem sufficient to be able to meet all of the elements of the announced plan.’

Mr Pearce moved: That the motion of Mr Field be amended by omitting the words ‘to certify fishers through the Oceanwatch Master Fisher Program. The currently funding commitment of \$400,000 does not seem sufficient to be able to meet all of the elements of the announced plan’.

Amendment of Mr Pearce put.

The committee divided.

Ayes: Mr Brown, Mr Colless, Mr Graham, Mr MacDonald, Mr Pearce and Mr Veitch.

Noes: Mr Field.

Amendment of Mr Pearce resolved in the affirmative.

Original question of Mr Field, as amended, put and passed.

Mr Field moved: That Recommendation 14 be amended by inserting at the end:

‘That the NSW Government:

- Increase funding to the community awareness campaign to support the promotion of local NSW seafood to a minimum of \$250,000 a year over four years. This funding should also support the rollout and adoption of the master fisherman’s course.’

Question put.

The committee divided.

Ayes: Mr Field, Mr Graham, Mr Veitch.

Noes: Mr Brown, Mr Colless, Mr MacDonald, Mr Pearce.

Question resolved in the negative.

Resolved, on the motion of Mr Field: That Recommendation 14 be amended by inserting at the end:

‘That the NSW Government:

- consider the creation of a New South Wales seafood label as part of the planned community awareness program.’

Resolved, on the motion of Mr Colless that:

- a. The draft report as amended be the report of the committee and that the committee present the report to the House;
- b. The transcripts of evidence, submissions, tabled documents, answers to questions on notice and supplementary questions, and correspondence relating to the inquiry be tabled in the House with the report;
- c. Upon tabling, all unpublished attachments to submissions be kept confidential by the committee;
- d. Upon tabling, all unpublished transcripts of evidence, submissions, tabled documents, answers to questions on notice and supplementary questions, and correspondence relating to the inquiry, be published by the committee, except for those documents kept confidential by resolution of the committee;
- e. The committee secretariat correct any typographical, grammatical and formatting errors prior to tabling;
- f. The committee secretariat be authorised to update any committee comments where necessary to reflect changes to recommendations or new recommendations resolved by the committee;
- g. Dissenting statements be provided to the secretariat within 24 hours after receipt of the draft minutes of the meeting;
- h. The report be tabled on 24 February 2017.

5. **Adjournment**

The committee adjourned at 3.04 pm until 9.45 am, Friday 24 February 2017 in Room 1136, Parliament (water augmentation expert briefing)

Beverly Duffy
Clerk to the Committee

Appendix 4 Dissenting statements

The Hon Mick Veitch MLC and The Hon John Graham MLC, Australian Labor Party

The Labor members of the Committee believe the Inquiry into Commercial Fishing represented an opportunity to explore and address many of the concerns that have been raised by a majority of members of the commercial fishing industry since the Government announced the precise nature of the restructure in the middle of 2016.

The report did identify many of the underlying issues which are causing much distress and threatens to wipe out many industry participants, along with co-ops, associated industry and jobs in regional NSW. Unfortunately, the report did not make recommendations that would see issues addressed before continuing with the restructure.

Rather than recommending the Government “hit the pause button”, the committee report unfortunately allows the Government’s bungled restructure to continue.

Labor believes the following issues should have been addressed and the Government forced to report back to the Committee before the restructure proceeding:

- The failure of Government to justify the overarching rationale and timing of the restructure;
- The adequacy of the science underpinning the reform and sustainability of the industry, particularly since the closure of Cronulla Fisheries Research Facilities, as identified by the independent Stokes and McCloy report;
- The adequacy of the Business Adjustment Package, considering the disparity between the Government’s estimation of the economic value of the industry as approximately \$90 million compared with independent academic analysis five times that value;
- The failure of the Government to establish a Ministerial Advisory Council and Peak Industry body *prior to* the commencement of reforms;
- The absence of a Social Impact Assessment;
- The failure to establish a coordinated approach between government agencies to match redundant fishers with relevant public sector job vacancies
- The failure of the Government to have appointed an independent probity advisor to oversee all part of the restructure process from the outset
- The failure of the Government to consider alternative ways to allocate rights within the industry, including recognition of catch history

Labor members were pleased to see the committee accept recommendations to defer share trading for those eighteen fish classes for which the Independent Allocation Panel has not settled the total allowable catch. These were the fishers facing the greatest degree of uncertainty.

This reform would have been easier without the loss of scientific expertise and the goodwill lost by the closure of the Cronulla Fisheries Research centre. The loss of half the staff who worked at the former centre has been keenly felt.

Labor thanks the committee secretariat for the efforts in conducting the inquiry and starting to piece together the pieces in a complex and highly controversial restructure. It is disappointing that the Committee did not have sufficient time to undertake a more thorough assessment and travel to the regions to see for itself the devastating impacts the Government restructure is and will have on fishers and their communities.

Rather than an opportunity to reassess the timing, scope and direction of the restructure, the Committee's report as adopted merely notes the issues, lists the deficiencies, and allows the Minister to continue a poorly thought out and badly implemented restructure.

Mr Justin Field MLC, The Greens

Pressing pause on the reform

The committee report recognises the need for reform within the commercial fishing industry in NSW. That view doesn't take away from the very real concern expressed by many fishers about their future post reform, or the frustration and anger over the reform process that was clear in written submissions and hearing testimony.

Many issues raised related to the consultation by the department around the reform process. Clearly some fishers felt that they have been unable to get timely and accurate information to support them to make decisions about their businesses and how to engage in the reform. The complexity of the reform process has been part of the problem in this regard. The Department has acknowledged some of these problems and their failures in some aspects.

A critical question for the committee was whether the reforms should be halted while the recommendations of the committee are considered by Government and to give more time to get aspects of the reform right and ensure fishers have the information they need to make decisions. This was not supported by most the committee.

The risk of unintended consequences from the reform remain by proceeding with the current uncertainties. The issue of latent effort is of note. Many submissions suggested latent effort should have been dealt with before the linkage of shares with quota/effort was pursued. This would have been a sensible approach.

Those fishers who will go through the Independent Allocation Panel process also face uncertainty and it would have been preferable that total allowable catch was determined before the subsidized share trading commenced.

There is also a need to better understand the risks to co-ops and the social impact on fishing communities before the reform process proceeds.

Community Awareness Campaign and a 'NSW' seafood label

The Greens support an environmentally sustainable and economically viable commercial fishing industry in NSW. We all benefit from access to healthy and affordable local seafood. Currently as much as 90% of seafood consumed in NSW comes from overseas. Without reform and ongoing support for the NSW commercial fishing industry, this will become worse.

The committee supported the creation of a NSW seafood label as part of the planned community awareness program. But the delivery of outcomes from this program will be limited without sufficient investment and the Government's proposed contribution of \$400,000 is insufficient.

NSW consumers are increasingly interested in the provenance of the food they consume. Many food business have benefited from building their brand around a connection to the grower/producer, the production area and methods and especially the sustainability of the production process. A move toward 'paddock to plate' or 'field to fork' experiences may be a direction available to NSW commercial fishers that could yield new customers and community support for the industry.

More money should be committed by the Government, including to supporting fishers to participate in the Oceanwatch Master Fishers Program, to support the future development of the industry and a strong 'NSW' seafood brand to promote our sustainable seafood.

