

Portfolio Committee No.5 – Industry and Transport

Review of the commercial fishing inquiry recommendations

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Terms of reference

1. That Portfolio Committee No.5 – Industry and Transport inquire into and report on the implementation of the recommendations of the inquiry into commercial fishing in New South Wales.

The terms of reference were self-referred by the committee on 22 June 2017.¹

¹ *Minutes*, NSW Legislative Council, 22 June 2017, p 1795.

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	
The Hon Wes Fang MLC*	The Nationals	
The Hon John Graham MLC*	Australian Labor Party	
Mr Scot MacDonald MLC	Liberal Party	
The Hon Mark Pearson MLC*	Animal Justice Party	

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- * The Hon Wes Fang replaced the Hon Greg Pearce MLC as a substantive member from 15 November 2017.
- * The Hon John Graham MLC substituted for the Hon Daniel Mookhey MLC for the duration of the inquiry.
- * Mr Justin Field MLC substituted for Dr Mehreen Faruqi MLC for the duration of the inquiry until 13 August 2018.
- * The Hon Mark Pearson MLC replaced Dr Mehreen Faruqi MLC as a substantive member from 18 September 2018.

Chair's foreword

This committee acknowledged in its 2017 Commercial fishing in New South Wales report that reform of the commercial fishing industry was needed. However, it was clear to the committee that the transition to the new arrangements implemented by the NSW Government were causing considerable uncertainty and challenge for some of the state's fishers.

The committee considered it prudent to maintain a watching brief over the implementation of the reforms. This inquiry was therefore established with the targeted mandate to review the government's progress in implementing the 18 recommendations outlined within the committee's 2017 report.

This was not a typical inquiry in that the committee did not seek submissions or conduct public hearings. The body of this report is informed by a private briefing from the Minister for Primary Industries, senior officials from the Department of Primary Industries and the Small Business Commissioner. Periodic written updates were also provided by the Minister.

The committee is broadly satisfied with the government's progress in implementing its recommendations. However, the committee reiterates its call to the government to ensure that no small or medium business is unfairly impacted by the Business Adjustment Program. It is also critical that comprehensive assistance and support is provided to the industry throughout the remaining stages of the reform process.

The committee makes one recommendation. That is, that the government urgently publish the findings of the social impact assessment conducted into the possible impacts of the commercial fishing reforms. This is vital not only for ensuring that its impacts are adequately understood and addressed, but to ensure that trust and transparency in the process is maintained.

On behalf of the committee, I thank the Minister and officials for their cooperation throughout this inquiry. I also thank the Hansard and secretariat staff for their professional support throughout.

I look forward to receiving the government's response to this report.



The Hon Robert Brown MLC
Committee Chair

Recommendation

Recommendation 1

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That the NSW Government urgently publish the findings of the Social Impact Assessment report, conducted by the University of Canberra into the possible impacts of the commercial fishing reforms.

Conduct of inquiry

The terms of reference for this inquiry were self-referred by Portfolio Committee No. 5 – Industry and Transport on 22 June 2017. This inquiry was established to inquire into and report on the implementation of the recommendations of the inquiry into commercial fishing in New South Wales which was completed in February 2017.

The committee received a private briefing on the progress of the NSW Government's commercial fishing reforms by the Hon Niall Blair MLC, Minister for Primary Industries; Ms Robyn Hobbs OAM, Small Business Commissioner; and senior officials from the Department of Primary Industries on 16 August 2017.

The Minister for Primary Industries also provided the committee with several written updates regarding commercial fisheries reform over the course of the inquiry. The committee did not seek public submissions or hold public hearings on account of the explicit and limited terms of reference for the committee's inquiry.

Inquiry related documents, including tabled documents and correspondence received from the Minister for Primary Industries are available on the inquiry website. The committee resolved that the transcript of the briefing and answers to questions on notice remain confidential, as they contain potentially identifying and/or sensitive information.

Chapter 1 Implementation of recommendations

This chapter provides a brief overview of the NSW Government's Commercial Fisheries Business Adjustment Program. It also sets out a summary of the government's progress in implementing each of the recommendations outlined within the *Commercial fishing in New South Wales* inquiry report, tabled by General Purpose Standing Committee No. 5 in February 2017.

As outlined in the conduct of the inquiry section, the committee did not seek public submissions or hold public hearings on account of the explicit and limited terms of reference for the committee's inquiry. Information included in this chapter was provided to the committee during a private briefing with the Minister for Primary Industries and other senior officials, as well as subsequent written updates.

The Business Adjustment Program

- 1.1 The central component of the New South Wales commercial fishing reform process is the Business Adjustment Program. The Business Adjustment Program introduced arrangements which linked shares to a resource entitlement. That is, a certain number of shares would entitle a fisher to catch a certain amount of fish (quota) or to expend a particular amount of effort (number of days fishing or type of equipment used). Fishers would also be required to obtain a minimum number of shares to participate within a particular class.² These arrangements commenced for 24 individual share classes in December 2017.³
- 1.2 A number of transitional measures were implemented by the government to support the industry transition to the new arrangements. This included a \$16 million Adjustment Subsidy Program which comprised opportunities for fishers to obtain fishing business buyouts as well as a subsidised online share trading market which would enable fishers to buy and sell shares across fishing classes.⁴
- 1.3 The subsidised share trading market ran between May and June 2017. A number of market rules informed how buyers would be matched with sellers. For example, bids from active fishers with a shortfall of shares needed to participate in a particular class were prioritised for matching with respective sellers. Once all bids had been placed, the government applied a subsidy to maximise the number of successful matches.⁵
- 1.4 The Hon Niall Blair MLC, Minister for Primary Industries advised the committee of the results of the subsidised share trading market in August 2017. The Minister noted that 75 per cent of all buyers' share deficits had been reduced and that 95 per cent of fishers in the minimum shareholding classes had obtained the shares they needed to continue fishing. At that time, a

² General Purpose Standing Committee No.5, NSW Legislative Council, *Commercial Fishing in New South Wales* (2017), p 2.

³ Department of Primary Industries, *Commercial Fisheries Business Adjustment Program*, <https://www.dpi.nsw.gov.au/fishing/commercial/reform>, accessed 28 August 2018.

⁴ General Purpose Standing Committee No.5, *Commercial Fishing in New South Wales*, p 3.

⁵ General Purpose Standing Committee No.5, *Commercial Fishing in New South Wales*, pp 3-4.

total of \$15.1 million had been spent by the government in implementing the Adjustment Subsidy Program.⁶

- 1.5 As at June 2018 share linkage arrangements for a small number of remaining share classes were under consideration by the Minister for Primary Industries.⁷ In September 2018, the Minister announced the share linkage arrangements which are expected to take effect in 2019.⁸

Implementation progress by recommendation

- 1.6 The February 2017 report of General Purpose Standing Committee No.5 made 18 recommendations regarding the government's program of reform for the New South Wales commercial fishing industry.⁹ The government responded to the committee's report in March 2017. The government supported or gave in principle support for each of the 18 recommendations.¹⁰ The government's progress in implementing each of these recommendations is summarised below.

Recommendation 1

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

- 1.7 The government supported this recommendation. The government advised that the Department of Primary Industries (DPI) had previously extended the application period from December 2016 to 30 January 2017. The committee was told that it was not possible to extend it any further because it was important that a complete share registry was in place when the share trading market opened on 1 May 2017.
- 1.8 However, fishers were provided with additional opportunities to obtain business buyouts over the course of the Business Adjustment Program. This included an opportunity during the subsidised share trading market (which operated between May 2017 - June 2017) where fishers

⁶ Tabled document, Department of Primary Industries, PowerPoint presentation, 16 August 2018, p 1.

⁷ Correspondence from the Hon Niall Blair MLC, Minister for Primary Industries to Chair, 28 June 2018, p 1.

⁸ Department of Primary Industries, *New quota shares to be issued 2018*, <https://www.dpi.nsw.gov.au/fishing/commercial/reform/new-quota-shares>, accessed 18 September 2018; Correspondence from Ms Miranda Pade, Office of the Hon Niall Blair MLC, Minister for Primary Industries, 17 September 2018.

⁹ General Purpose Standing Committee No. 5, *Commercial Fishing in New South Wales*, pp viii - ix.

¹⁰ Correspondence from the Hon Niall Blair MLC, Minister for Primary Industries to the Clerk of the Parliaments, providing government response to the inquiry into commercial fishing in New South Wales, 24 March 2017.

could submit an offer to sell their shares and obtain \$20,000 for their empty business as well as sale proceeds. A further process also took place between July to December 2017.¹¹

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.

- 1.9** The government supported this recommendation stating that it 'expected to meet all published time frames'.¹² The Independent Allocation Panel was established to provide advice to government on the criteria to be used in allocating new quota shares for 18 species or species groups and effort shares for the Ocean Trawl fishery.¹³
- 1.10** In August 2017, the government advised that three experts had been appointed to the Independent Allocation Panel and that a probity firm was in place to manage the process. The government also noted that additional funding had been made available for fishers 'unfairly or unreasonably impacted as a result of the IAP process'.¹⁴
- 1.11** In June 2018, the Hon Niall Blair MLC, Minister for Primary Industries, advised that the Independent Allocation Panel's Final Reports had been received and were under consideration. The Minister further advised that he has requested clarification on a number of matters and as a consequence more time was required to complete the process. The Minister outlined his intention to release the Independent Allocation Panel's reports, the government's response to these reports, and the confirmed allocation arrangements for remaining share classes no later than September 2018.¹⁵
- 1.12** On 14 September 2018, the Minister for Primary Industries announced that the government had accepted 'the final recommendations of the Independent Allocation Panel on the allocation of new species and effort quota shares'. The Minister also outlined his commitment to issue quota shares for relevant share classes by November 2018. A range of assistance measures to support impacted fishers transition to the new arrangements are expected to be available from 1 November 2018.¹⁶

¹¹ Tabled document, NSW Government, *Parliamentary Inquiry into Commercial Fishing – Update on progress against the recommendations*, p 2; Correspondence from Ms Miranda Pade, Office of the Hon Niall Blair MLC, Minister for Primary Industries, 17 September 2018.

¹² Government response to the inquiry into commercial fishing in New South Wales, 24 March 2017, p 3.

¹³ Tabled document, *Parliamentary Inquiry into Commercial Fishing – Update on progress against recommendations*, pp 2- 3.

¹⁴ Tabled document, *Parliamentary Inquiry into Commercial Fishing – Update on progress against recommendations*, p 3.

¹⁵ Correspondence from the Hon Niall Blair MLC, Minister for Primary Industries to Chair, 28 June 2018, p 1.

¹⁶ Department of Primary Industries, *New quota shares to be issued 2018*, <https://www.dpi.nsw.gov.au/fishing/commercial/reform/new-quota-shares>, accessed 18 September 2018;

- 1.13 Quota arrangements for the remaining species were scheduled to commence in December 2018.¹⁷ However, in June 2018 the Minister advised that quota arrangements would now begin in 2019 to 'allow more time for industry adjust'. The Minister advised that quota arrangements for the Ocean fisheries would commence in May 2019 to align with the Commonwealth quota period, and the remaining Estuary General share classes would commence in July 2019 to align with existing quota periods in other Estuary General share classes.¹⁸

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.

- 1.14 The government supported this recommendation and advised in August 2017 that it had been implemented.¹⁹ The Minister noted that a probity *advisor* was in place for the duration of the subsidised share trading market, and would prepare a report at the conclusion of the market process. Furthermore, a probity *auditor* to conduct a retrospective review of the share trading market and assess compliance with specified probity principles, as per the committee's recommendation, had also been appointed.²⁰
- 1.15 In May 2018, the Minister confirmed that reports from both the probity *advisor* and the probity *auditor* had been received. The final report from the probity *advisor* concluded 'we are satisfied with the probity associated with the market process'. The probity *auditor* verified this conclusion, and stated that 'nothing has come to our attention to indicate that the processes undertaken by DPI for the subsidised share trading market were not compliant with the probity principles described in the scope in all material aspects'.²¹
- 1.16 In relation to the second part of the recommendation, the Minister advised that a review of the role and involvement of the Structural Adjustment Review Committee (SARC) in addressing potential conflicts of interest had been conducted by an 'independent team' from within DPI. This review found 'that appropriate processes were followed by the Structural Adjustment

Correspondence from Ms Miranda Pade, Office of the Hon Niall Blair MLC, Minister for Primary Industries, 17 September 2018.

¹⁷ General Purpose Standing Committee No. 5, *Commercial fishing in New South Wales*, p 5.

¹⁸ Correspondence from the Hon Niall Blair MLC, Minister for Primary Industries to Chair, 28 June 2018, pp 1-2.

¹⁹ Government response to the inquiry into commercial fishing in New South Wales, 24 March 2017, p 3.

²⁰ Tabled document, *Parliamentary Inquiry into Commercial Fishing – Update on progress against the recommendations*, p 3.

²¹ Correspondence from the Hon Niall Blair MLC, Minister for Primary Industries to Chair, 28 May 2018, p 1.

Review Committee in dealing with conflicts of interest' and that while no specific conflicts had been identified, SARC members understood the correct processes to address them.²²

Recommendation 4

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

- 1.17** The government supported this recommendation.²³ In August 2017, the Minister confirmed that four co-operatives had accessed business development grants worth \$30,000 to assist them adopt to the new industry arrangements. Furthermore, 11 co-operatives, located on Crown Land, have benefited from a two year rent free period. The government stated that it 'will continue to provide assistance and support to fishing co-operatives as the reform progresses'.²⁴
- 1.18** The NSW Government has offered to extend rent relief for fishing co-operatives on crown land for an additional two years at a 50 per cent rate, on the condition that they work with the Small Business Commissioner to put a sustainability plan in place.

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 the arrangements are communicated to the commercial fishing industry.

- 1.19** The government supported this recommendation.²⁵ In August 2017, the Minister advised that the Office of the Small Business Commissioner had worked with fishers in the lead up, during, and post the subsidised share trading market to ensure that fishers were equipped for the impacts of reform.²⁶
- 1.20** The Minister noted that the Office of the Small Business Commissioner had 'been in contact with over 700 fishers to offer a range of assistance'. This included support in registering for the

²² Correspondence from the Hon Niall Blair MLC, Minister for Primary Industries to Chair, 28 May 2018, p 1.

²³ Government response to the inquiry into commercial fishing in New South Wales, 24 March 2017, p 4.

²⁴ Tabled document, *Parliamentary Inquiry into Commercial Fishing – Update on progress against the recommendations*, p 4.

²⁵ Government response to the inquiry into commercial fishing in New South Wales, 24 March 2017, p 4.

²⁶ Tabled document, *Parliamentary Inquiry into Commercial Fishing – Update on progress against the recommendations*, p 4.

subsidised share trading market, referrals to other services, and offering 15 workshops which provided practical assistance to over 300 fishers in preparation for the online market.²⁷

- 1.21** The Minister also advised the committee that the Office of the Small Business Commissioner, along with the Department of Primary Industries, had reviewed over 150 appeals made by small businesses in relation to catch records. All businesses were personally contacted by the Office of the Small Business Commissioner and advised of the outcome of their appeal. The Office of the Small Business Commissioner has also been working with the department to ensure support is provided to all fishers who need it following the release of the market results, including those who received targeted assistance.²⁸

Recommendation 6

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

- 1.22** The government supported this recommendation in principle. It advised that it had committed to providing \$2,000 grants to commercial fishers for financial and legal advice.²⁹ As at August 2017, 160 fishers had taken advantage of the financial advice grants available.³⁰

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.

- 1.23** The government supported the recommendation, advising that the Office of the Small Business Commissioner will assist fishers wishing to exit the industry by supporting them through the Business Connect Program – a personalised advisory program for individual businesses. As at August 2017, the Business Connect program remained available to those wishing to exit the industry.³¹

²⁷ Tabled document, *Parliamentary Inquiry into Commercial Fishing – Update on progress against the recommendations*, p 5.

²⁸ Tabled document, *Parliamentary Inquiry into Commercial Fishing – Update on progress against the recommendations*, p 5.

²⁹ Government response to the inquiry into commercial fishing in New South Wales, 24 March 2017, p 4.

³⁰ Tabled document, *Parliamentary Inquiry into Commercial Fishing – Update on progress against the recommendations*, p 6.

³¹ Tabled document, *Parliamentary Inquiry into Commercial Fishing – Update on progress against the recommendations*, p 6.

Recommendation 8

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

- 1.24 The government supported this recommendation in principle and advised that as of August 2017 that it had 'met almost all published timeframes'.³² Subsequent advice from the Minister for Primary Industries noted delays to the roll out of the Independent Allocation Panel process, and the commencement of quota arrangements for the remaining share classes to 2019.³³ This is discussed further in the summary pertaining to Recommendation 2.

Recommendation 9

That the NSW Government require the NSW Commercial Fishing Advisory Council (CommFish NSW) 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.

- 1.25 The Government supported this recommendation.³⁴ The Minister tabled the report from CommFish NSW, entitled *Annual Report to the Minister for Primary Industries 2017-2018* and dated June 2018, in Parliament on 14 August 2018.³⁵

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 of the recommendations of the 2016 *Review of the current NSW Resource Assessment Framework* by John McKoy and Kevin Stokes.

- 1.26 The government supported this recommendation in principle. It noted that DPI had accepted all of the recommendations from the McKoy and Stokes review and intended to implement

³² Tabled document, *Parliamentary Inquiry into Commercial Fishing – Update on progress against the recommendations*, p 6.

³³ Correspondence from the Hon Niall Blair MLC, Minister for Primary Industries, to Chair, 28 June 2018, pp 1-2.

³⁴ Government response to the inquiry into commercial fishing in New South Wales, 24 March 2017, p 5.

³⁵ Tabled document, Commercial Fishing NSW Advisory Council, *Annual Report to the Minister for Primary Industries 2017-2018* (2018). <https://www.parliament.nsw.gov.au/lc/taledpapers/Pages/taled-paper-details.aspx?pk=73928>

them throughout 2017 and 2018.³⁶ In August 2017, the Minister confirmed, 'all timeframes as committed' had been achieved.³⁷ This included the commencement of the transition by DPI fisheries to the Commonwealth Status of Australian Fish Stocks (SAFS) framework. A first meeting of the newly formed Expert Data Group had also taken place.³⁸

Recommendation 11

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

- 1.27** The Government supported this recommendation in principle.³⁹ In August 2017, the Minister advised that a framework for a penalty demerit point scheme for commercial fishers was under development and that DPI was 'well on track' to report on the nature of the scheme by the end of 2018.⁴⁰
- 1.28** An industry consultation, seeking views on a proposed penalty demerit scheme, similar schemes already in place in Tasmania and South Australia, opened in July 2018 and closed in August 2018.⁴¹

Recommendation 12

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

- 1.29** The government supported this recommendation.⁴² In August 2017, the Minister confirmed that preliminary testing had been completed on initial electronic catch recording systems, and that funding had been secured to ensure fishers, and those who provide them with business support, were adequately trained to use the technology. The Minister also advised that once the

³⁶ Government response to the inquiry into commercial fishing in New South Wales, 24 March 2017, p 6.

³⁷ Tabled document, *Parliamentary Inquiry into Commercial Fishing – Update on progress against the recommendations*, p 7.

³⁸ Tabled document, *Parliamentary Inquiry into Commercial Fishing – Update on progress against the recommendations*, p 7.

³⁹ Government response to the inquiry into commercial fishing in New South Wales, 24 March 2017, p 6.

⁴⁰ Tabled document, *Parliamentary Inquiry into Commercial Fishing – Update on progress against the recommendations*, pp 8-9.

⁴¹ Department of Primary Industries, *Industry Consultation, Penalty Demerit Scheme – commercial fisheries*, July 2018. https://www.dpi.nsw.gov.au/__data/assets/pdf_file/0003/825861/Penalty-demerit-scheme-industry-consultation-paper.pdf

⁴² Government response to the inquiry into commercial fishing in New South Wales, 24 March 2017, p 6.

technology was operational, the government would explore opportunities to roll it out to the state's fishing co-operatives.⁴³

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.

- 1.30** In September 2018, the office of the Minister for Primary Industries confirmed that a report undertaken by the University of Canberra into the possible impacts of the commercial fishing reforms had been finalised. Advice provided to the committee indicated that the report included a recommendation regarding how impacts could be monitored going forward. Further, that the Department of Primary Industries will undertake monitoring activities when the quota arrangements for the species included within the Independent Allocation Panel process commence in 2019.⁴⁴

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.

- 1.31** The government supported this recommendation in principle, noting in August 2017 that it had been implemented.⁴⁵ CommFish was established in March 2017 and has met around seven times.⁴⁶ Membership of CommFish includes representatives from each of the 10 New South Wales fisheries. Members were appointed following a nomination and expression of interest

⁴³ Tabled document, *Parliamentary Inquiry into Commercial Fishing – Update on progress against the recommendations*, pp 9-10.

⁴⁴ Correspondence from Ms Miranda Pade, Office of the Hon Niall Blair MLC, Minister for Primary Industries, 17 September 2018.

⁴⁵ Government response to the inquiry into commercial fishing in New South Wales, 24 March 2017, p 7.

⁴⁶ Department of Primary Industries, *Commercial Fishing NSW Advisory Council*, <https://www.dpi.nsw.gov.au/fishing/consultation/ccfnswac>, accessed 27 August 2017.

process. The membership includes an Aboriginal commercial fisher. The Minister confirmed that all members of CommFish had been inducted appropriately.⁴⁷

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.

- 1.32 The government supported this recommendation.⁴⁸ However, advised that 'no further action' was required by the government as the Professional Fishermen's Association had commissioned a study into an appropriate pathway towards the establishment of a peak industry body. This included the consideration of possible funding options.⁴⁹

Recommendation 16

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

- 1.33 The government supported this recommendation in principle.⁵⁰ In September 2018, the office of the Minister for Primary Industries confirmed that the Aboriginal Fishing Trust was created and operational in the 2017/2018 financial year. Approximately 25 applications for funding were received from fishers following an expression of interest process.⁵¹

Recommendation 17

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

⁴⁷ Tabled document, *Parliamentary Inquiry into Commercial Fishing – Update on progress against the recommendations*, p 11.

⁴⁸ Government response to the inquiry into commercial fishing in New South Wales, 24 March 2017, p 8.

⁴⁹ Tabled document, *Parliamentary Inquiry into Commercial Fishing – Update on progress against the recommendations*, p 12.

⁵⁰ Government response to the inquiry into commercial fishing in New South Wales, 24 March 2017, p 8.

⁵¹ Correspondence, Ms Miranda Pade, Office of the Hon Niall Blair MLC, Minister for Primary Industries, 17 September 2018.

- 1.34 The government supported this recommendation advising that 'where appropriate, the government will continue to consider the issue of permits to support Aboriginal commercial fishers'.⁵²

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 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.

- 1.35 The government supported this recommendation in principle.⁵³ In August 2017, the Minister advised that consultation with key stakeholders within the state's seafood supply chain had commenced. The consultation sought views on removing the current exemption of country of origin labelling for seafood for immediate consumption. Consumer research from the University of Technology Sydney and the Fisheries Research and Development Corporation was also being considered.⁵⁴

Committee comment

- 1.36 The committee welcomes the government's positive response to its first inquiry, and the cooperation of the Minister for Primary Industries, Small Business Commissioner, and departmental officials in providing the necessary progress reports for this inquiry. This is a complex reform for the commercial fishing industry. The committee acknowledges the uncertainty and challenges faced by many fishers within the industry, and calls on the government to ensure that no small or medium business is unfairly impacted by the roll out of the Business Adjustment Program.
- 1.37 At the time of writing this report, the subsidised share trading market for 24 share class groups had taken place and quota or fishing effort arrangements for these groups had commenced. Various forms of assistance have also been provided to fishers in the lead up to and post the implementation of these arrangements.
- 1.38 Preliminary progress reports received by the committee indicate that the reform program has been relatively successful and the committee was encouraged by the recent results of the probity audit on the subsidised share trading market. The committee also welcomes the establishment

⁵² Tabled document, *Parliamentary Inquiry into Commercial Fishing – Update on progress against the recommendations*, p 13.

⁵³ Government response to the inquiry into commercial fishing in New South Wales, 24 March 2017, p 9.

⁵⁴ Tabled document, *Parliamentary Inquiry into Commercial Fishing – Update on progress against the recommendations*, p 13.

of CommFish NSW. However, there is still much to be done, and it is within that context that the committee has reviewed the government's progress in implementing the 18 recommendations outlined within its 2017 report.

- 1.39** In its first report the committee recommended that the government fast track the Independent Allocation Panel process. The committee is therefore concerned by the delays to this process on account of the considerable uncertainty that will have been experienced by many fishers.
- 1.40** The committee notes the recent announcement by the Minister for Primary Industries which confirms the government's support for each of the recommendations outlined within the Independent Allocation Panel's final reports. We recognise that this may be a challenging time for impacted fishers. We strongly urge the government to ensure that adequate government assistance and comprehensive information is provided to the industry to support its transition to the new arrangements.
- 1.41** The committee is encouraged by the work of the Small Business Commissioner and believes that the involvement of the Office of the Small Business Commissioner has played a valuable role in the delivery of the Business Adjustment Program to date. The committee acknowledges that this has not been an easy transition, however it is important that this support continue throughout the remaining stages of the reform process, and that valuable feedback provided by the commercial fishing sector be applied going forward.
- 1.42** Finally, it has now been some nine months since the share linkage arrangements commenced for the initial 24 share classes. The impacts of this change are no doubt being keenly felt by commercial fishers in this state. In its first report, the committee recommended that a Social Impact Assessment be completed. The committee notes that this report has now been finalised. The committee now recommends that the government urgently publish the findings of this report, conducted by the University of Canberra into the possible impacts of the commercial fishing reforms. The committee also calls on the government to action any recommendations urgently to ensure that issues impacting fishers are fully understood, lessons can be applied to the reform processes, and that trust and transparency is maintained.

Recommendation 1

That the NSW Government urgently publish the findings of the Social Impact Assessment report, conducted by the University of Canberra into the possible impacts of the commercial fishing reforms.

Appendix 1 Recommendations from the committee's first report

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.

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.

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.

Recommendation 4

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

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.

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.

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.

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.

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.

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.

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 2 Minutes

Minutes no. 41

Thursday 22 June 2017

Portfolio Committee No. 5 – Industry and Transport

Members' Lounge, Parliament House, 1.25 pm

1. Members present

Mr Brown, *Chair*

Mr Veitch, *Deputy Chair*

Mr Colless

Mr Field (substituting for Dr Faruqi)

Mr MacDonald

Mr Pearce

Ms Sharpe

Mr Graham (participating)

2. Correspondence

The committee noted the following items of correspondence:

Received

- ***
- 21 June 2017 - Letter from Mr Brown, Ms Sharpe, and Mr MacDonald, requesting a meeting to consider a proposed self-reference for an inquiry into the implementation of the recommendations of the inquiry into commercial fishing in New South Wales.

3. Consideration of terms of reference

Mr Brown tabled the letter proposing the following self-reference:

- i) That Portfolio Committee No. 5 inquire into and report on the implementation of the recommendations of the inquiry into commercial fishing in New South Wales.

Resolved, on the motion of Mr MacDonald: That the committee adopt the terms of reference.

4. Conduct of the inquiry into the implementation of the recommendations of the inquiry into commercial fishing in New South Wales

Resolved, on the motion of Ms Sharpe: That the committee:

- not open submissions to the inquiry and place an alert on the committee's website advising of the purpose of the inquiry
- distribute a brief media release outlining the purpose of the inquiry, with no other advertising being necessary
- table its report by end September 2017.

Briefing by the Minister

Resolved, on the motion of Mr Colless: That the committee hold an in camera briefing (recorded by Hansard) in July-September 2017, with the Minister for Primary Industries and any departmental staff nominated by the Minister, on a date to be determined by the Chair after consultation with members regarding their availability.

5. ***

6. Adjournment

The committee adjourned at 1.31 pm, until Tuesday 1 August 2017, Lismore (public hearing).

Emma Rogerson
Clerk to the Committee

Minutes no. 45

Wednesday 16 August 2017

Portfolio Committee No. 5 – Industry and Transport

Macquarie Room, Parliament House, 10.00 am

1. Members present

Mr Brown, *Chair*

Mr Veitch, *Deputy Chair*

Mr Field (substituting for Dr Faruqi)

Mr Graham (substituting for Mr Mookhey)

Mr MacDonald (until 12.17 pm)

Mr Pearce

2. Apologies

Mr Colless

3. Previous minutes

Resolved, on the motion of Mr Field: That draft minutes no 42 be confirmed.

4. Inquiry into the implementation of the recommendations of the inquiry into commercial fishing in New South Wales.

4.1 Briefing by the Hon Niall Blair MLC

The committee was briefed by the Hon Niall Blair MLC, Minister for Primary Industries who was accompanied by the following following representatives from the Department of Primary Industries:

- Mr Scott Hansen, Director General – Department of Primary Industries
- Dr Geoff Allan, Deputy Director General, Primary Industries Fisheries

Ms Robyn Hobbs, OAM, NSW Small Business Commissioner also attended the briefing.

The briefing concluded and the Minister and other representatives withdrew.

4.2 Tended documents

Resolved, on the motion of Mr Veitch: That the committee accept and publish the following documents tendered during the briefing:

- Opening statement, tendered by the Hon Niall Blair MLC, Minister for Primary Industries
- Update on progress against the recommendations, tendered by the Hon Niall Blair MLC, Minister for Primary Industries
- Powerpoint presentation, tendered by the Hon Niall Blair MLC, Minister for Primary Industries
- List of members and minutes of CommFish, tendered by the Hon Niall Blair MLC, Minister for Primary Industries
- FisherMobile screenshots, tendered by the Hon Niall Blair MLC, Minister for Primary Industries
- Changes to commercial fishing industry, tendered by Ms Robyn Hobbs OAM, NSW Small Business Commissioner

5. Adjournment

The committee adjourned at 1.06 pm *sine die*.

Donna Hogan
Clerk to the Committee

Minutes no. 51

Tuesday 19 September 2017
 Portfolio Committee No. 5 – Industry and Transport
 Macquarie Room, Parliament House, 12.00 pm

1. Members present

Mr Brown, *Chair*
 Mr Veitch, *Deputy Chair*
 Mr Buckingham
 Mr Colless
 Mr MacDonald
 Mr Mason-Cox
 Mr Mookhey (until 12.22 pm)
 Mr Green (participating)
 Ms Sharpe (participating)

2. ***

3. ***

4. Inquiry into the implementation of the recommendations of the inquiry into commercial fishing in New South Wales

Resolved, on the motion of Mr Buckingham: That the committee keep confidential answers to questions on notice from the Hon Niall Blair MLC, Minister for Primary Industries, Minister for Regional Water and Minister for Trade and Industry.

5. Adjournment

The committee adjourned at 2.00 pm, until Monday 20 November 2017, 6.00 pm, Macquarie Room, Parliament House (public hearing).

Sam Griffith
Clerk to the Committee

Minutes no. 57

Wednesday 6 December 2017
 Portfolio Committee No. 5 – Industry and Transport
 Members' Lounge, Parliament House, 10.03 am

1. Members present

Mr Brown, *Chair*
 Mr Veitch, *Deputy Chair*
 Mr Colless

2. Apologies

Mr Fang
 Dr Faruqi
 Mr MacDonald
 Mr Mookhey

3. Previous minutes

Resolved, on the motion of Mr Veitch: That draft minutes no. 55 be confirmed.

4. Correspondence

The committee noted the following item of correspondence:

Sent:

- ***

Received:

- ***
- 1 December 2017 – Letter from Hon Niall Blair MLC, Minister for Primary Industries, Regional Water, and Trade and Industry, to Chair regarding commencement of new commercial fishing share linkage and management arrangements.

5. ***

6. Adjournment

The committee adjourned at 10.05 am, *sine die*.

Sharon Ohnesorge
Committee Clerk

Minutes no. 59

Tuesday 6 March 2018

Portfolio Committee No. 5 – Industry and Transport

Members' Lounge, Parliament House, 2.20 pm

1. Members present

Mr Veitch, *A/Chair*

Mr MacDonald

Mr Mason-Cox

Mr Mookhey

Mr Green (participating)

Ms Sharpe (participating)

2. Apologies

Mr Brown, *Chair*

3. Previous minutes

Resolved, on the motion of Mr MacDonald: That draft minutes no. 56 be confirmed.

4. Correspondence

The committee noted the following items of correspondence:

Received

- 27 October 2017 – Hon Niall Blair MLC, Minister for Primary Industries, Regional Water, and Trade and Industry, to Chair regarding progress of regulatory changes arising from commercial fishing reforms
- 6 December 2017 – Hon Niall Blair MLC, Minister for Primary Industries, Regional Water, and Trade and Industry, to Chair regarding progress of regulatory changes arising from commercial fishing reforms.

5. ***

6. Adjournment

The committee adjourned at 2.27 pm *sine die*.

Samuel Griffith
Committee Clerk

Minutes no. 60

Friday 13 April 2018
 Portfolio Committee 5 – Industry and Transport
 Macquarie Room, Parliament House, Sydney, 9.15 am

1. Members present

Mr Brown, *Chair*
 Mr Primrose, *Deputy Chair*
 Mr Colless
 Mr MacDonald
 Mr Fang
 Dr Faruqi
 Mr Mookhey

2. ***

3. ***

4. ***

5. ***

6. Inquiry into the review of the commercial fishing recommendations**6.1 In camera evidence**

Resolved, on the motion of Mr Colless: That the transcript of the in camera evidence given on 16 August 2017 remain entirely confidential as it contains identifying and/or sensitive information.

6.2 Reporting timeframe

Resolved, on the motion of Mr MacDonald: That the inquiry reporting date for the inquiry into the review of the commercial fishing recommendations be September 2018.

7. Adjournment

The committee adjourned at 16.33 pm until Friday 4 May 2018, McKell Room, Parliament House (water augmentation inquiry report deliberative).

Stephanie Galbraith
Clerk to the Committee

Draft Minutes No. 73

Monday 24 September 2018
 Portfolio Committee No. 5 - Industry and Transport
 1043, Parliament House, Sydney, at 10.31 am

1. Members present

Mr Brown, *Chair*

Mr Veitch, *Deputy Chair*

Mr Colless

Mr Fang

Mr MacDonald

Mr Pearson

2. Apologies

Mr Graham

3. Draft minutes

Resolved, on the motion of Mr Veitch: That draft minutes no. 45 be confirmed.

4. Correspondence

The committee noted the following items of correspondence:

Received:

- 6 July 2017 – Email from the Hon Shaoquett Moselmane MLC to secretariat advising that the Hon John Graham MLC will be substituting for the Hon Penny Sharpe MLC for the duration of the inquiry into the implementation of the commercial fishing inquiry recommendations
- 13 July 2017 – Letter from the Hon Niall Blair MLC, Minister for Primary Industries to Chair accepting the committee's invitation to privately brief the committee on the implementation of the commercial fishing inquiry recommendations
- 17 October 2017 – Letter from the Hon Niall Blair MLC, Minister for Primary Industries to Chair regarding the government's commercial fisheries reforms
- 19 April 2018 – Letter from the Hon Niall Blair MLC, Minister for Primary Industries to Chair regarding the Fisheries Management Legislation Amendment (Spanner Crab) Regulation 2018
- 28 May 2018 – Letter from the Hon Niall Blair MLC, Minister for Primary Industries to Chair regarding the probity audit of the commercial fisheries share trading market
- 28 June 2018 – Letter from the Hon Niall Blair, Minister for Primary Industries to Chair regarding the implementation of Independent Allocation Panel process
- 29 June 2018 – Letter from the Hon Niall Blair, Minister for Primary Industries to Chair regarding the Fisheries Management Legislation Amendment Regulation 2018
- 13 July 2018 – Email from Ms Miranda Pade, Office of the Hon Niall Blair MLC, to secretariat regarding the publication of correspondence from Minister Blair
- 17 September 2018 – Email from Ms Miranda Pade, Office of the Hon Niall Blair MLC, Minister for Primary Industries, providing update on the implementation of certain commercial fishing recommendations.

Sent:

- 13 July 2017 – Letter from Chair, to the Hon Niall Blair MLC, Minister for Primary Industries inviting the Minister to privately brief the committee on the implementation of the commercial fishing recommendations.

Resolved, on the motion of Mr Fang: That the committee authorise the publication of correspondence from the Hon Niall Blair MLC, Minister for Primary Industries, dated 17 October 2017, 27 October 2017, 1 December 2017, 6 December 2017, 19 April 2018, 28 May 2018, 28 June 2018 and 29 June 2018 regarding the implementation of commercial fishing reforms, and that it be published on the committee's website.

Resolved, on the motion of Mr Fang: That the committee authorise the publication of correspondence from Ms Miranda Pade, Office of the Hon Niall Blair MLC, Minister for Primary Industries, dated 17 September 2018, regarding the implementation of certain commercial fishing recommendations, and that it be published on the committee's website.

5. Inquiry into the implementation of the recommendations of the inquiry into commercial fishing in New South Wales

Consideration of Chair's draft report

The Chair submitted his draft report entitled *Review of the commercial fishing inquiry recommendations*, which having been previously circulated, was taken as being read.

Resolved, on the motion of Mr Veitch: That the Chapter 1 introduction be amended by inserting at the end: 'As outlined in the conduct of inquiry section, the committee did not seek public submissions or hold public hearings on account of the explicit and limited terms of reference for the committee's inquiry. Information included in this chapter was provided to the committee during a private briefing with the Minister for Primary Industries and other senior officials, as well as subsequent written updates'.

Resolved, on the motion of Mr MacDonald: That the following new paragraph be inserted after paragraph 1.17:

'The NSW Government has offered to extend rent relief for fishing co-operatives on crown land for an additional 2 years at a 50 per cent rate, on the condition that they work with the Small Business Commissioner to put a sustainability plan in place.'

Resolved, on the motion of Mr Veitch: That paragraph 1.40 be amended by omitting 'has been instrumental' and inserting instead 'has played a valuable role'.

Resolved, on the motion of Mr Veitch: That paragraph 1.41 be amended by omitting 'now encourages the government' and inserting instead 'now calls on the government'.

Resolved, on the motion of Mr Veitch: That the following new recommendation be inserted after paragraph 1.41:

'Recommendation X

That the NSW Government urgently publish the findings of the Social Impact Assessment report, conducted by the University of Canberra into the possible impacts of the commercial fishing reforms.'

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. That the report be tabled on 27 September 2018.

Government response

Resolved, on the motion of Mr Veitch: That the Chair move in the House, that the government provide a response to the committee's report entitled *Review of the commercial fishing recommendations* by 28 February 2019.

6. Adjournment

The committee adjourned at 10.43 am, *sine die*.

Stephanie Galbraith
Committee Clerk