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9<sup>th</sup> January 2016

# Wild Caught Fishers Coalition NSW Parliamentary Inquiry Response to Questions on Notice

Send to:  
The Director  
Inquiry into Commercial Fishing NSW  
Upper House Committee  
Parliament of NSW 2000  
SYDNEY  
NSW



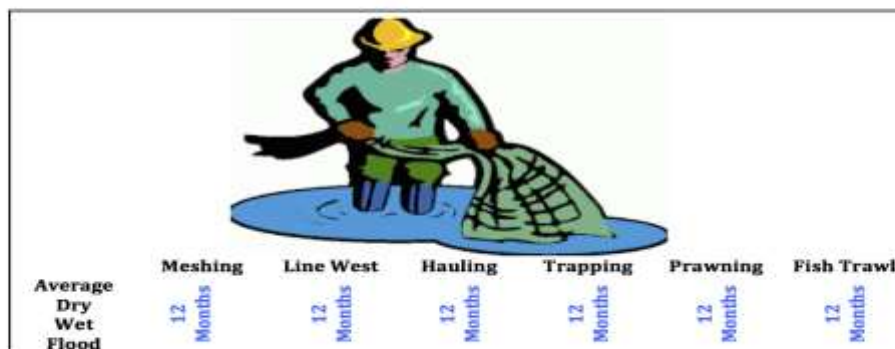
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1. Please explain what latency is, how does it actually work in practice and what is the impact now under the Business Adjustment Program to latent shares with individual businesses?

ANSWER: a) How does latency work

## Latent effort explained

How DPI imply that share classes work.



## Reality of share classes Multi Method Diversified



The perception given by DPI is that just because a multi-endorsed fisher has the capacity to operate in every share class is not a true reflection of reality, a fisher can only participate in one method at a time.

Forcing a fisher to invest in their current level of effort in specific fisheries limits their seasonal flexibility.  
 The change from dry and wet can sometimes run over a 10 - 15 year period.

Prepared by  
 Dane Van Der Neut

Please see attached graphic explanation.



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**b) What is the impact under the Business Adjustment Program (BAP)?**

- Is Latent effort a threat? Firstly NSW DPI now hides latent effort. To do this they bundled those with no catch and those with low catch and combined the two, then called them both inactive effort.
- Then to force the need and incentive to buy shares the DPI set a date (timeline for change) to introduce the BAP.
- They then determined after two attempts to set interim catch levels for each fishery, how many fishers they want left proportioned to the history of catch and effort. (Caveat on working group membership)
- They decided to either use days worked or quota or minimum levels of entry either way an estimated number of fishers would be removed from the fishery to reach the goal. (Now Active fishers will be removed)
- With the cut-off date set and the levels and linkages released in May 2016 most fishers did not know that their catch history would be divided up across the fishery specific to each method of activity.
- The subsequent allocation of some form of effort across the specified fishery creates activity for all endorsements whether active, inactive or total latent (no fishing activity at all) irrespective of their financial capabilities.
- With a scored value of effort equal across each fishery those fishers whose catch history has been utilised to be viable region by region must buy shares to regain sufficient quota, days or the new minimum to continue to work after 1<sup>st</sup> July 2017.
- This now forces in the period from May 2016 to July 2017 the fishers to look at the Business, realise the dilemma and then find a workable solution to stay in his fishery to be viable, reduce any debt that will now be incurred or reduce loss of current assets being transferred into the new shares that have to be purchased just to do what that fisher did before the 31<sup>st</sup> May without new debt.

**c) The Issue in the process:**

- Equal allocation of shares 2007 they were gained from Recognised Fishing operations and catch history over set years.
- Vested interests on committees. Pre B.A.P share purchases.
- Two attempts required to set ITCALS the first totally unworkable yet recommended by DPI!
- Caveats on working groups – Not open to people who did not agree with the process.
- Caveats on Review by Neil Macdonald – information specific to working forward not the issues overall.
- Failure of DPI to present the proposal to all fishers adequately before the 31<sup>st</sup> May – because the new the industry would not agree to
- NO recognition of the catch history of fishers and the regions they worked in their hierarchy of wealth demolished from 2007 to 2016.



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#### **d) History Examples**

The Lobster fisheries were created by using the Catch history of fisher's. This was a totally different exercise at the time of first introducing shares.

Similarly Ian Cartwright's example from AFMA also was totally different exercise the shares were based on catch history to the individual fisher not shared across all fishers.

Repeated attempts of lowering inactive effort have not benefited the remaining fishers. These adjustments subsequently remove active effort from shareholders who are multi endorsed and utilise their endorsements overall for the business viability, hence when their forced to take out some of their catch from one area they are unable to continue due to the transferring of effort across to another endorsement that may already be at its maximum and the overheads now born by less catch rather than more. Leasing becomes the option which for an active fisher is questionable for low value fisheries.

#### **Example of the NSW Estuary General Fishery Environmental Impact Assessment clarification of latent effort and subsequent planning! Assessed in 2001**

Quote:

Fishing Effort and latent effort in the EG fishery

Effort in a fishery can be appraised at different levels of aggregation. In the Estuary General fishery, each business produces effort in the EG fishery and in other fisheries for which it holds endorsements. Endorsements can be inactive, or if active, used lightly or to a fuller extent, with the fishing activity being measured in days fished.

There were 944 businesses holding 1,003 endorsements to fish in EG in 2001. For the 1,003 licence holders holding EG endorsements, 623 were actively fishing in a range of commercial fisheries in 1999-2000 and 380 were not.

Of the 623 active fishers, 90 could have fished in EG, but chose to catch fish in other fisheries for which they were endorsed. This left 533 with a catch record in EG in 1999-2000. Of these, 360 fished EG only and 173 fished EG and other fisheries.

**Comment:**

**In the discussion below, the term latent effort is used. It is defined as an endorsed fisher who has not submitted a catch return in a given period, as they have not fished. Active effort can be thought of as having three layers in relation to effort in the EG fishery.**

Quote Cont.

Firstly, some businesses may not be fishing any of their endorsements in EG or other fisheries. There are 380 endorsements with no fishing activity associated with them in 1999-2000. These are considered latent and are unfished for a variety of reasons (for example, multiple endorsement holdings, in another industry for a period, ill health and old age. The social section of this report provides further details). These business operators could activate their endorsements by fishing or transferring them to other operators hence raising active effort in the fishery. Holding the licence as a fishing right for its option value is also permissible and owners incur management and licence fees.

Secondly, EG endorsement holders that fished in other fisheries can be considered latent when considering the EG, but not to the degree of the previous case. They have chosen to fish other fisheries for a variety of reasons, but to hold the EG endorsement for its option value. They may choose to use it again next season. This behaviour may reflect both economic and social reasons and also perceived resource catch rates among alternative fisheries. **Comment: (this should have include sustainability).**



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Quote Cont.

Thirdly, there are fishers in the EG fishery who could increase their effort by increasing the days fished to a higher level. The management issues with latent effort are discussed in Appendix 1a.

#### **Appendix 1a: What is the management issue with latent effort?**

Current fishery endorsement capacity exceeds the level of effort applied to the fishery. This leaves “latent effort” which is an administrative construct as described above.

For example, a firm may hold endorsements to fisheries A, B, C, and D, and currently be fishing in fisheries A, B and C. Endorsement D is regarded as “latent effort” when appraising fishery D, but fishery D is unlikely to be fished by the firm as it is currently fishing in fishery A, B and C. Industry seeks the security of having fishery D as an option if some combination of fisheries A, B and C has a poor period. While this option of sideways movement of effort is desirable from the firm’s perspective, the potential influx of effort is deemed to be a problem by managers observing effort levels in fishery D, who may be concerned about sustainable levels of effort in that fishery.

Holding multiple endorsements, including endorsements for fisheries not currently exploited, is a sensible diversification of risk on the part of the fishing firm. Although the vessel in the above example is not exploiting fishery D, its D endorsement has an option value. It provides the firm with some degree of income insurance if fisheries A, B or C experience a downturn for any reason.

Latent effort is seen as a problem by administrators because of the size of the potential shifts of effort among fisheries. Firstly, latent vessels have to have a reason to forgo their current activity and enter the fishery. However with each vessel that shifts into fishery D, for example, conditions may improve in fisheries A, B and C and deteriorate in D as a result of the effort redistribution. In other words, there is a natural brake on the process, although shifts in effort of this type are not directly managed or coordinated in any way.

Despite the above argument, if there is a very large amount of latent effort and a substantial reason for it to be activated, enough effort could shift into fishery D to cause significant effects on stock. This is the central concern of administrators with latent effort in developing sustainable fishery management plans and is generally a low risk unless there are strong economic signals, such as fish price increases, for latent effort to be activated. However latent effort should also be attributed to the excessive number of fishing businesses in the industry, not to the range of activities of each firm. An efficient policy response is to reduce the number of businesses, while allowing each firm full opportunity to diversify its activities among fisheries. It is not desirable for a group of vessels being linked to a single endorsement type in an ailing fishery, when other viable fishing opportunities exist, but may be denied by the administrative system.



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In summary, it is economically undesirable to limit directly the capacity of fishing businesses to move between fisheries as this reduces the scope of the businesses and their security of operation. However, if there is excess capacity there must be mechanisms to reduce total effort across the industry, through a reduction in the number of businesses (Metzner and Rawlinson, 1999).

#### **Appendix 1b: Latent effort and the EG fishery.**

There is a large latent effort associated with the Estuary General fishery. The potential for activation of latent effort by new entrants is governed by the natural economic brakes of viability, being engaged in other fishing or work activities and the cost of fishing effort. Potential activation of latent effort is also contained by a range of regulations in place which control effort.

Under the FMS latent effort is to be contained. The removal of latent effort is not an explicit strategy and would have serious ramifications for industry.

#### **The activation and removal of latent effort (Source: NSWF).**

We assume each file number is allocated 100 shares. This is an approximation to both business and endorsement shareholding, giving the dimensions of the potential impact for assessment purposes. The total number of shares stay in the fishery under each scenario in Appendix Table G1. Scenario A envisages the removal of latent shareholdings over 5 years. Scenario B, the removal of latent shareholdings and those shares held by fishers fishing elsewhere in 5 years. There are 380 fishers associated with latent endorsements and 90 fishing in other fisheries.

The Index indicates how the fisher's shareholding would increase relative to the base period shareholding under each scenario. Scenario A would require a 61% increase in shareholdings and scenario B an 88% increase in shareholdings over five years. It is assumed that effort has to stay within historical levels (response 2.2b) and that the latent effort is not activated by new entrants (Obj. 2.3).

This shows the need to prevent latent effort activation under the strategy. Failure to control latent effort activation would impact on the adjustment of active effort under shareholding strategies under responses 2.2b and 2.3b.

**Appendix Table GA1:** Two scenarios estimating the reduction of latent effort in the next 5 years through shares being transferred to remaining fishers (see text for explanation).

The removal of latent effort is estimated as costing each remaining shareholder 61% or 88% of the value of 100 shares, approximately 61% to 88% of the value of an EG business. During this process there is no guarantee that effort will keep within historic levels. In the FMS Part 4, there are performance indicators and trigger points to detect changes in catch, and these will also need to include effort levels and measures to address and contain fishing effort. Fishing effort would tend to increase to enable remaining fishers to fund the additional share purchases in order to remain in the fishery.

In summary, Appendix Table G1 gives the dimensions of latent effort. Activation of latent will encroach on the potential of the fisheries management strategy to address active effort levels through strategies 2.2b and 2.3b.



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Scenario A	Latent effort reduced to zero in five years					
	2002	2003	2004	2005	2006	2007
EG shares	100,300	100,300	100,300	100,300	100,300	100,300
made up of						
Latent	38,000	30,400	22,800	15,200	7,600	-
Fished other	9,000	10,098	11,196	12,294	13,392	14,490
Mixed fishing	17,300	19,410	21,521	23,631	25,742	27,852
EG only	36,000	40,392	44,783	49,175	53,567	57,958
Index	1	1.12	1.24	1.37	1.49	1.61

Scenario B	Latent effort and fished other reduced to zero in 5 years					
	2002	2003	2004	2005	2006	2007
EG shares	100,300	100,300	100,300	100,300	100,300	100,300
made up of						
Latent	38,000	30,400	22,800	15,200	7,600	-
Fished other	9,000	7,200	5,400	3,600	1,800	-
Mixed fishing	17,300	20,351	23,402	26,453	29,504	32,555
EG only	36,000	42,349	48,698	55,047	61,396	67,745
Index	1	1.18	1.35	1.53	1.71	1.88

The removal of latent effort is estimated as costing each remaining shareholder 61% or 88% of the value of 100 shares, approximately 61% to 88% of the value of an EG business. During this process there is no guarantee that effort will keep within historic levels. In the FMS Part 4, there are performance indicators and trigger points to detect changes in catch, and these will also need to include effort levels and measures to address and contain fishing effort. Fishing effort would tend to increase to enable remaining fishers to fund the additional share purchases in order to remain in the fishery. In summary, Appendix Table G1 gives the dimensions of latent effort. Activation of latent will encroach on the potential of the fisheries management strategy to address active effort levels through strategies 2.2b and 2.3b.

#### **EPT EIS 2004 :**

Quote 'Objective 2.4 of the EPT FMS is to prevent the activation of latent (unused) fishing effort. This will be achieved through alteration of fishing business numbers via minimum shareholdings under a secure category 2 fishing right (objective 5.2). Under category 2 share management, shares in access are allocated (on a basis as yet undecided, NSW, 2001), replacing the restricted fishery endorsement scheme and can be traded.





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The rights characteristics of the endorsement have been augmented by the increased divisibility of the shares and increasing the transferability which enables parts of endorsements to be traded. The category 2 share proposed in the FMS is a share of access to each endorsement type and is different to a share of catch as in the existing category 1 share management fisheries ( e.g. Abalone, Rock Lobster). The category 2 shares are also potentially a direct control on effort levels under the FMS. However, the share defines general access, rather than an amount of individual effort. The category 2 share will **enable effort** at the endorsement number level to be addressed, while a suite of existing regulations such as gear, area and time restrictions, seasonality of fish availability, and economic viability, all contain effort.

Since 1994 entrants to the NSW fishing industry have needed to buy a Recognised Fishing Operation (RFO) which is a business which qualified through the 1986-90

and 1991-93 catch history qualifying period. The qualification level was \$10,000 of fish or 5 tonnes in any 2 of the former qualifying years, and any 1 of the latter qualifying years.

In 1990 there were approximately 2,400 licences and this had reduced to 1,650 businesses in 2001. This represents a rate of decline of 68 licences/businesses per year over the 1990-2001 period, or a total decline of 31% in 11 years, approximately 3% per year.

The intention of the minimum shareholding scheme is to implement this rate of reduction of business numbers in the next 5 years, making a decline of 15% to 1400 businesses state-wide. This rate of change will form the basis for assessing economic impacts.

In Estuary Prawn Trawl a 15% reduction in the number of businesses would be from 289 businesses in 2001, to 246 by 2006. If the reduction in business numbers were uniform across the EPT, the impact in each region is reported in Table G18. Several businesses have two entitlements and this is accounted for in Table G18. There would be an adjustment of approximately 36 businesses from EPT in the 2002-2007 period after the closure of Botany Bay.

Entrants to the EPT fishery have automatic RFO status, but across the NSW fishing industry there has been consolidation of businesses through the RFO policy (Murphy, 1999).

Murphy (1999) illustrates that the adjustment has been impacting small businesses grossing below \$30,000 per annum with little impact on larger businesses.





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**I was interested in some of the comments made on Monday and if the Chair would allow it, we would appreciate making some comments on notice on some of the statements that were made that we believe may not be accurate, if that would be okay?**

#### **Comment**

DPI Statement to inquiry Number of fishers and the reduction of fishers and the claim that the Reform is not intended to reduce active fishers is disputed. The trading of shares pre May and the trading of shares Post May the ability to correlate who owns the shares is also possible linked with graphs sent separately.

#### **Comments Graphs of shares and fishing businesses verifications:**

Estuary General FB's with Shares from 2006 to 2016

##### **Number of Shareholder Entitlements**

Regions 1 to 7	9/6/2006	December 2011	Dec 2013	3/2/2014	Sep 2015	23/3/2016	24/8/2016	4/11/2016	Total reduction
Handline and Haul	640	524	553	493	482	475	444	427	213
Meshing	539	453	474	415	404	403	382	365	154
Prawning	428	358	370	333	322	321	300	283	145
Trapping	197	164	165	157	149	148	146	142	55
Eel Trapping	183	162	164	153	149	147	159	143	40
Mud crab trap	230	203	209	184	178	177	162	157	73
Hand gathering	112	92	93	78	77	76	75	72	40
Category 1 haul	150	133	138	125	126	126	126	118	32
Category 2 haul	146	133	135	126	125	124	122	121	25
Total Shareholders	2653	2222	2301	2065	2012	1997	1916	1824	<b>829</b>

Shareholder Entitlements traded from June 2006 to March 2016 was **656** from March 2016 to November 2016 was **173'**

**Note: More shares traded before Ministers Announcement on 31st may 2016**



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Total Fishing Businesses. No records available since December 2011 on how many Fishing Business in Estuary General

Regions 1 to 7	9/6/2006	December 2011	Dec 2013	3/2/2014	Sep 2015	23/3/2016	24/8/2016	4/11/2016	Total reduction
Total Number of FB	661	607	No record	No record	No record	No record	No record	No record	No record

*Above very clearly the majority of the share trading has happened between June 2006 to 23/3/2016. Between 2006 to 2011 is not clear as is December 2013 to February 2014.*

*A total of Shareholder entitlements and reduction of FB's is very difficult to determine as the information on the DPI web site clearly shows an increase of all Estuary general shareholding in Jan 2013 and Dec 2013.*

**This situation must be addressed as a matter of urgency & a full explanation given to all shareholders in EG.**

Estuary Prawn Trawl FB's with Shares from 2007 to 2016  
 Number of Shareholder with Entitlements

Region	5/2/2007	27/10/09	Jan 2013	3/2/2014	Sep 2015	23/3/2016	24/8/2016	4/11/2016	Total reduction
Clarence River	111	102	93	91	78	78	73	70	41
Hawkesbury River	58	56	56	55	51	51	49	45	13
Hunter river	29	27	27	91	20	18	18	18	11
Total Share Holders	198	185	176	171	149	147	140	133	65

Shareholder Entitlements traded From Jan 2013 to Sep 2015 is **29** from  
 Sept 2015 to March 2016 was **2** from March 2016 to November 2016 was **14**



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Total Shares in each Region and Fishing Businesses. Estuary prawn Trawl

Region	5/2/2007	27/10/09	Jan 2013	3/2/2014	Sep 2015	23/3/2016	24/8/2016	4/11/2016	Total reduction
Clarence river	15430	15430	15430	15430	15430	15430	15430	15420	10
Hawkesbury River	8490	8490	8490	8490	8490	8490	8490	8490	0
Hunter River	2900	2800	2800	2800	2800	2800	2800	2800	0
Total Number of FB	195	180	No records ?	No records ?	160	157	151	143	52

Very clearly the majority of the share trading happened between 5/2/2007 to 23/3/2016

A total of **51** Shareholder entitlements and reduction of **38** FB's

All before the Minister made his Announcement. The greatest reduction coming from the Clarence River.

Ocean Hauling Fishery FB's with Shares from 2007 to 2016

Number of Shareholder with Entitlements

All regions	5/2/2007	7/01/10	Jan 2013	3/2/2014	Sep 2015	23/3/2016	24/8/2016	4/11/2016	Total reduction
Ocean general haul			273	270	217	215	209	204	
Ocean haul Garfish			54	52	45	42	42	40	
Ocean Haul general Purpose net			125	123	107	105	103	99	
ocean Haul Pilchard anchovy bait			27	27	25	24	25	24	
Ocean purse seine			15	15	15	15	15	15	
Total Shareholders	532	486	494	487	409	402	394	382	150

Shareholder Entitlements traded From Jan 2013 to Sep 2015 is **85** from

Sept 2015 to March 2016 was **7** from March 2016 to November 2016 was **20**.

Note above Jan 2010 486 share holder entitlements and Jan 2013 494.

**An increase of 8**. NO explanation of this increase. ***This Increase needs to be addressed***



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Total Shares in each Region and Fishing Businesses.

Region	5/2/2007	7/01/2010	Jan 2013	3/2/2014	Sep 2015	23/3/2016	24/8/2016	4/11/2016	Total reduction
OGH			12180	12180	same	same	same	same	
OHG			2800	2800					
OHGPN			6840	6840					
OHPAB			640	640					
OPS			1980	1980					
Total shares			12180	12180					No record
Total Number of FB	313	288	No record	No record	No record	No record	No record	No record	of FB's Left

Very Clearly the majority of the share trading happened between 5/2/2007 to 23/3/2016

A total of **130** Shareholder entitlements and reduction of **FB's No record**

All before the Minister made his Announcement.

Ocean trap & Line Fishery FB's with Shares from 2007 to 2016 Number of Shareholder with Entitlements

Total Shares in each Region and Fishing Businesses.

Region	5/2/2007	7/01/2010	Jan 2013	3/2/2014	Sep 2015	23/3/2016	24/8/2016	4/11/2016	Total reduction
OGH			12180	12180	same	same	same	same	
OHG			2800	2800					
OHGPN			6840	6840					
OHPAB			640	640					
OPS			1980	1980					
Total shares			12180	12180					No record
Total Number of FB	313	288	No record	No record	No record	No record	No record	No record	of FB's Left

Very clearly the majority of the share trading happened between 5/2/2007 to 23/3/2016

A total of **130** Shareholder entitlements and reduction of **FB's No record**

All before the Minister made his Announcement. Ocean trap & Line Fishery FB's with Shares from 2007 to 2016 Number of Shareholder with Entitlements.



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**Ocean trap & Line Fishery FB's with Shares from 2007 to 2016**  
**Number of Shareholder with Entitlements**

Region	6/2/2007	7/01/10	Jan 2013	17/11/2014/2014	Sep 2015	23/3/2016	24/8/2016	4/11/2016	Total reduction
Line East Fishing	100	81	79	77	76	76	74	73	27
Line West Fishing	436	347	334	313	299	298	283	278	158
Demersal Fish trap	263	213	205	190	179	180	174	170	93
School & Gummy Shark	30	21	20	18	18	18	17	16	14
Spanner crab north	46	38	32	34	28	26	24	24	22
Spanner Crab South	9	9	9	9	9	9	8	8	1
Total Shareholders	884	709	679	641	609	607	580	569	315

Shareholder Entitlements traded From Jan 2013 to Sep 2015 is **70** from Sept 2015 to March 2016 was **2** from March 2016 to November 2016 was **38**

**Ocean Trawl Fishery FB's with Shares from 2007 to 2016**  
**Total Fishing Businesses holding shares in each category**

Region	6/2/2007	7/01/10	Jan 2013	17/11/2014	Sep 2015	23/3/2016	24/8/2016	4/11/2016	Total reduction
Line East Fishing	94	80	No record	78	78	78	76	76	
Line West Fishing	381	337	No record	330	325	323	310	304	
Demersal Fish trap	234	204	no record	198	192	191	186	181	
School & Gummy Shark	25	19	No record	18	18	18	17	17	
Spanner crab North	43	44	No record	34	28	26	24	24	
Spanner crab south	8	8	No record	9	9	9	9	9	
Total Shares	31485	27785	27785	27785	27785	27785	27785	27785	No Record
Total Number of FB	459	370	No record	No record	No record	No record	No record	No record	of FB's Left

Very clearly the majority of the share trading happened between 5/2/2007 to 23/3/2016  
 A total of **275** Shareholder entitlements and reduction of FB's **UNKNOWN**.  
 All before the Minister made his Announcement 31st may 2016 .





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The greatest reduction coming from the Line West Fishery.

#### Number of Shareholder Entitlements

Region	5/2/2007	27/10/09	Jan 2013	3/2/2014	Sep 2015	23/3/2016	24/8/2016	4/11/2016	Total reduction
Ocean Fish Trawl Southern restricted	40 did not count in	23 did not count in	No record	No record	No record	No record	No record	No record	Did not add in 63
Ocean Deepwater Prawn	59	43	41	35	33	33	33	33	26
Ocean trawl Fish north	64	52	45	41	40	40	39	39	25
Ocean trawl inshore prawn	250	217	194	166	160	160	155	148	102
Ocean trawl offshore prawn	223	193	176	149	142	142	140	136	87
Total Shareholders	596	433	456	391	375	375	367	356	240

Shareholder Entitlements traded from Jan 2013 to Sep 2015 is **81** from  
 Sept 2015 to March 2016 was **0** from March 2016 to November 2016 was **19**

#### Ocean Trawl

##### Total Shares in each Fishery and Fishing Businesses.

Region	5/2/2007	27/10/09	Jan 2013	3/2/2014	Sep 2015	23/3/2016	24/8/2016	4/11/2016	Total reduction
OFTSR	40	23	No record	no record	no record	no record	no record	no record	?
ODP	37	32	no record	41	39	38	38	38	?
OTFN	77	68	no record	44	43	43	42	42	?
OTIP	366	350	no record	183	178	178	173	162	?
OTOP	325	313	no record	166	160	160	158	150	?
Total Shares	25418	24117	23658	23658	23658	23658	23658	23656	2
Total Number of FB	304	250	No Record	No record	No record	No record	No record	No record	No record

Very Clearly the majority of the share trading happened between 5/2/2007 to 23/3/2016 A total of **221**  
**Not added in (63)** Shareholder entitlements & reduction of FB's not recorded by DPI.  
 All before the Minister made his Announcement on 31st May 2016.  
 The greatest reduction coming from Ocean Trawl Inshore.



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**DPI Submission and the Transcript from Monday the 12th December 2016 Scott Hanson, Geoff Allan, Ian Cartwright.**

**Quotes**

Answers Comments to Supplementary Questions from DPI 15/12/1/2016

Plus reference to submission 9th December 2016 from Abalone Industry and Conservation Council.

As outlined on page 8 & 9 of 82 ,

No one has asked the Question on Monday why the Mckoy and Stokes report was not made available well before the start of the Exit grant process as explicitly recommended by SARC in their Final recommendation 2015.

Extract as below. Page 8 and 9 of 82 SARC Final recommendations.

During the course of its work the SARC has become increasingly concerned that the widespread view that NSW fish stocks are fished sustainably is an overly simplistic interpretation of the DPI scientists' annual assessment of stock status<sup>4</sup>. The SARC is concerned about a number of aspects about the stock assessment reporting process which may be giving fishers and managers a false sense of security about the current and future sustainability of the stocks on which NSW fisheries rely.

Currently, DPI's assessment shows that of the 115 species/species complexes in the Department's Resource Assessment System: • • •

5 are overfished (4.3%) and 5 are growth overfished (4.3%) 32 are fully fished (27.4%) 4 are moderately fished (3.4%) 71 are undefined or uncertain (60.6%).

In addition, DPI scientists have expressed concerns about trends in catch, catch rate or size taken of a number of species in the fully fished, undefined or uncertain categories. These concerns are yet to be formally published.

Concerns include the quality of the data underlying the assessments, worrying trends in a number of stocks that are currently classed as fully fished or uncertain/undefined, and the large proportion of stocks for which status is unknown. In the context of the reform this is concerning, since it may influence investment decisions made during the exit grant process. The reality of this situation may only become apparent to fishers when the scientifically based TACs and TAEs are set in the second stage of the reform process or when stocks decline unexpectedly and catch or effort needs to be reduced in response.

The reform process will require some fishers to make significant investment in the future of their industry. The SARC believes that fishers need to know as much as possible about the current and projected future status of stocks if management action is not commenced, including the concerns of scientists noted above. The SARC notes that a full assessment report is planned to be produced by the end of 2015. We recommend that the Department ensure that this assessment report is available to industry well in advance of the conduct of the exit grant and that it is explicit about the underlying concerns that the DPI scientists have about the rigor of the assessments and the quality of data, and specific concerns about any stocks that are currently classified as fully fished or uncertain/undefined.





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Quotes cont.:

Also the McKoy and Stokes report on page 4 TOR 2

Catch and effort data are not considered reliable, undermining the ability to characterise exploitation status. Resource Assessment Class (RAC) ratings may be over-generous in some or even most cases. To meet decision-making needs post-reform (i.e., TAE and TAC-setting and varying), the data base and types of analyses used need to be improved to enable credible resource assessments and advice. We note that to manage a TAE or TAC in real-time, and to provide confidence to shareholders that legal transfers are worthwhile and that the system has integrity, catch and effort reporting needs to be robust and accurate. TAE/TAC and share management requirements and resource assessment requirements, especially of effort reporting, are different; catch and effort recording needs to accommodate both uses.

### 3.1 A defined assessment framework

While the resource assessment framework was based on the work reported by Scandol (2004), there have been several significant developments in NSW fisheries and fisheries management since the framework was proposed which have had an influence on implementation and operation of the framework.

These include: the impacts of discussions on fisheries management reforms, organisational changes and reduced resources available for assessments since 2011, changes to data quality, and Fisheries Management Strategies (FMS) becoming less relevant through time.

The “framework” as it is currently configured is, for the purpose of this review, defined as the processes for determining research and data gathering requirements, the research and data collection to support stock status assessment, the stock assessment process, and the reporting of outputs to support fisheries management. More detail of the performance of these elements is discussed below.

Overall, the framework is poorly defined in that elements of the framework are not well linked with each other, are not well linked to management needs, allow a poor level of engagement with stakeholders and do not include a reasonable level of quality assurance/review.

### Comment to above statements

**Clearly the Dept. has been under resourced since 2011. This was stated in the Steve Kennelly ‘Benchmarking report March 2015’ and also state by DPI**

### Quotes:

McKoy Stokes report Page 16 refers to performance:

The nature and use of indicators is eloquently described in Scandol (2004). He notes that classifications and reference points used in relatively high value stocks often have high quality data and high contrast in those data. This is the ideal that can lead to more robust conclusions about stock status and to forward looking advice. The large majority of NSW fisheries, however, have low landings and low value, and/or in mixed fisheries, meaning that data are limited and stock classifications, let alone forward looking advice, are hard to complete with reasonable confidence. Such fisheries will generally have to rely on indicators of relative stock status such as CPUE and other “empirical” evidence. Indicators (or “characteristics”) currently used in NSW to advise on resource status are defined in the Stock Exploitation Categories. A similar version of the categories and indicators is used in the SAFS system that is the subject of ToR 1 discussed below.



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#### **Quotes cont.:**

While indicators used in the current resource assessment framework generally seem appropriate, the reality is that many are not measureable in a consistent way due to lack of information or very poor quality data for key indicators such as those dependent on catch and, in particular, effort (e.g. CPUE). The result of this is that a high proportion of species being assessed in NSW are categorised as Undefined or Uncertain. We note that the rationales for inclusion in those categories, especially “uncertain”, are not transparent.

This points to a need to consider a revised set of indicators/characteristics better designed for the reality of the nature and quality of the information available for many NSW stocks. Our understanding is that the current categories were defined in a period when there was an expectation that data quality for indicators would improve. The reality seems to be that it has not, and may in fact have deteriorated, particularly since changes in catch and effort reporting in 2009.

In stock status assessment reporting, we would normally expect to see some discussion about i) data quality; ii) uncertainty associated with indicators; and iii) uncertainty associated with conclusions drawn about stock status. We can find little comment in the Full Status of Fisheries NSW Report 2013-14 about these quality and uncertainty considerations. (See also section 3.2 and Recommendation 3)

This has major implications for the credibility and defensibility of the assessments – features of the system which are likely to become significantly more important under the current reforms in fisheries management. See discussion below for Tor 2.

#### **Page 23**

Changes to the management of commercial fisheries have largely followed recommendations made by the Independent Review of NSW Commercial Fisheries Policy, Management and Administration in 2012<sup>8</sup>, which were substantially supported by the NSW Government<sup>9</sup>. Since that time, as recommended by the Independent Review, progress towards completion of the share-based regime envisaged in the Fisheries Management Act<sup>10</sup> has been rapid, with important oversight of the reform processes provided by the independently chaired Structural Adjustments Review Committee (SARC), itself set up on recommendation of the Independent Review. The draft recommendations of the SARC were completed in 2015 (11) following extensive consultation and deliberation (12). We understand the final report is due for completion in the near future, but note it was not available to this review of the performance of the present arrangements employed for the assessment of NSW fisheries.

#### **Comment:**

**What was the reason the SARC report was not made available to McKoy and Stokes? It was finished.**

#### **McKoy and Stokes report Page 26**

During this review we have seen worked examples of resource assessments from individual analysts. It is clear that individually, analysts are attempting to do the best job possible with the limited data available, often going to great lengths to interact directly with fishers in order to validate data entries and to filter raw data to be used in analyses. This has become especially important in the face of deteriorating catch and effort recording, the fundamental basis for much of the RAC 3 and above assessments. What we cannot see at all is a clear, auditable account of how for each stock the assessment framework criteria are evaluated and how final status determination is made, either by analysts or at the RAW. Nor, consequentially, can we see how consistently assessments are made through time, or across stocks. Even the full form Status of Fisheries Resources in NSW



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#### **Quotes cont.:**

reports does not contain these details, providing only an overall stock status summary and descriptive fact sheets for each stock.

Currently, while there is little scrutiny of the status reports by affected fisheries, this may be sufficient, but post-reforms, with share allocations made and cost-recovery systems to be introduced incrementally, it is likely that stakeholders affected by TAF Committee (or Secretarial) decisions will demand far more detail and transparency.

#### **Benchmarking Australia's**

#### **National fisheries status reporting system March 2014**

#### **Steven J Kennelly**

New South Wales Page 45,46,47,48

The NSW system was considered to be a very thorough and cost---effective reporting process that covers the main marine and estuarine species that are harvested by commercial and recreational fisheries in NSW. The latest report (Rowling et al, 2010) covered 108 species and can be found at: <http://www.dpi.nsw.gov.au/research/areas/fisheries---and---ecosystems/wild---fisheries/outputs/2010/1797>

The terminology used in NSW used to have 8 categories of stock status (Recruitment Overfished, Overfished, Growth Overfished, Fully Fished, Moderately Fished, Lightly Fished, Uncertain and Undefined). But categories were redefined in 2011 down to 6 categories and these are given in Table 9 below.

Table 9 □ Status classifications used in NSW in 2011

#### **Page 47 Kennelly report**

NSW DPI has indicated that there have been significant reductions in resources available to continue their fish stocks status reporting system. They have advised that a variety of internal and external drivers have led to a review of current resource assessment protocols in the state, but have not provided this review nor indicated what, if any, new processes will arise from it.

#### **Page 48 Kennelly report**

#### **The NSW system and SAFS**

NSW have indicated that, for the time---being, they will only contribute to the national SAFS system to the extent that their diminished resources permit.

#### **INDEPENDENT REVIEW OF NSW COMMERCIAL FISHERIES POLICY, MANAGEMENT AND ADMINISTRATION March 2012 states Page 7**

Consequently, the Department has been unable to use economics in policy development as it should be, particularly in the context of moving towards Maximum Economic Yield (MEY) approaches to fisheries management. This has resulted in the delegation of the economic decisions/policy making to industry (noting that in reality industry is equally ill-equipped to provide sound advice). The Review Team recommends that the Department increase its capacity to undertake economic monitoring and analysis to inform management decisions.



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#### **Quotes Cont.:**

It would be naive to assume that funding for fisheries management is made independent of other calls for government spending or that there will ever be sufficient public resources available to have sound knowledge for all of our fisheries resources. If funding is to continue to be unduly constrained, this would indicate that the risk to resource sustainability and profitability is compromised and that more conservative catch/effort settings and supporting regulations are required to manage that risk.

As part of its input to this Review, the Department submitted that it had made efforts to implement the recommendations of previous reviews into the performance of fisheries management. While substantial efforts have been made, they have been severely constrained by insufficient resources and commitment at the political level to implement the recommendations.

The Independent review in March 2012 made recommendations in March 2012 as above. it states "If funding is unduly constrained this would indicate that the risk to resource sustainability and profitability is compromised and that more conservative catch/effort settings and supporting regulations are required to manage that risk." Why is this the case when the government is embarking on a Major Structural Reform to the Industry?

#### **Comment:**

**How can you have confidence in the Department when:**

**The above Report was not presented as recommended by SARC and they did not provide the SARC report to McKoy and Stokes.**

**The industry is investing thousands of dollars yet the reports are hidden.**

**WHY?**

**There is no explanation for this – was it not made available to the industry because it was so bad?**

**Scott Hanson's statement from the transcript on Monday page 8 ' we can take comfort from the fact we have been using gold-standard approach for stock assessment' this is NOT born out by the fact or other reports.**

**Page 8 Dr. Allan States on transcript 'we made a decision to move to the national framework'**

#### **Comment:**

**This decision was made 2012 (it is now 2016) why was it in 2014 that the DPI state they could only participate as far as diminished resources permitted? (as above)**

Dr. Allan states 'Our stock assessment framework in the past led the way in Australia' 'But other parts of the world have moved on'

#### **Comment:**

**Again this is not correct: Their stock assessments had diminished resources as stated above. This has been since 2011. SARC were concerned. Fisheries scientists covered all this in detail during the closure of Cronulla during the parliament inquiry in 2012.**



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**Quotes cont.:**

Dr. John Stewart stated “Yet, if this closure goes ahead, and we lose most of our expertise, then I cannot see how the Government can fulfill its legislative requirement to adequately assess the status of its fisheries resources. The only solution I can see is that we revert to a model used in some other States where only a couple of species are assessed each year. This would clearly be unacceptable. In addition, please be aware of the large and quite controversial reforms to commercial fishing that the Government has just announced. These reforms involve using forms of quota to manage most of our exploited species. Such a management model will require improved fisheries assessments if it is going to ensure sustainable fisheries, not diminished assessments. Unfortunately, I cannot see a way out of this mess that the Government is making for itself if the decision to close Cronulla fisheries is not overturned. “

**Comment:**

**Why did they wait until May 2016 to do a review?**

Furthermore the submission by the Abalone Association of NSW 9th December 2016 outlines all the issues from  
Lack of consultation/management  
management fees, Independent review of sized limits, harvest strategy

Conclusion: In conclusion, there are many challenges facing the Abalone share-managed industry and much confusion and disappointment amongst current shareholders. Lack of communication and lack of time-framed outcomes is ongoing. The costs of running a viable share-managed abalone small business are considerable and the premise offered under the Commercial Fisheries Reform documentation to prospective share-managed fisheries that “the NSW Government is committed to securing a sustainable, viable and healthy fishery for NSW” is not a commitment currently being demonstrated to the NSW Commercial Abalone Industry.

**Comment:**

**How can you have any confidence in what the DPI and the Government are telling the rest of the industry when the Abalone Industry is saying the above?**

**Nature Conservation Council of NSW Date received: 8 December 2016**

**Inadequacy of publically available information**

The most recent publicly available fisheries status report for NSW was produced in 2008-09. Annually produced status reports are an essential component of sustainable fisheries management. It is very concerning that the Government continually fails to produce publicly available reports on the status of our fisheries. These reports were essential resources for the community interested in the management of our common resources.



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Quotes Cont.:

Below is extract from page 2 & 3 from the Abalone Industry submission 9th December 2016

Lack of consultation/management cont.:

The AANSW requested a review of management at our August 11 meeting due to no meaningful outcomes regarding a request by Industry to have the long-awaited App for catch reporting adopted and rolled out, along with hanging fish by numbers and a review of management charges.

There is currently a high degree of uncertainty regarding cultural fishing rights and compliance action for poaching activities. The laws recognising legitimate cultural fishing rights are not disputed by shareholders in the Abalone industry. There is substantial evidence to show that abalone industry shareholders support cultural catch. But abalone shareholders despair at ongoing finds of abalone shell dumps (including undersized shells) where the meat has been shucked, in local communities. These finds mean that the work shareholders undertake to ensure their catch is sustainable and legal is being abused by others.

We are yet to be provided with outcomes on any of these matters close to four months later. The lack of communication has made the AANSW feel alienated within our own Industry.

The current catch reporting process is antiquated and involves double handling and a permanent DPI staff member to process hand-written forms with the transfer of information requiring numerous follow-up calls due to perceived or real calculation errors and data queries.

Management Fees:

AANSW members are concerned that DPI is neglecting its core responsibility under the Fisheries Management Act to protect the state's fishery resources: are "to conserve, develop and share the fishery resources of the State for the benefit of present and future generations".

We have requested a review of our management fees and also a freeze based on the calculation of 2015 quota season pending a review of mismanagement of our share- managed fishery. We have sought assistance from Minister Niall Blair to enable progress payments to commence, avoiding a burden on shareholders paying a single lump sum payment. No one expects access to this resource without paying their way, and the holdup is not from AANSW.

Independent Review of Size Limits

Despite recommendation from the Total Allowable Catch Committee (TACC) to increase minimum size limits in sections along the coast, implementation has not been forthcoming. An independent review was promised 18 months ago at an initial industry meeting and then a further industry meeting. The ongoing "lip service" continues to frustrate commercial shareholders.

Harvest Strategy

A recommendation from the Total Allowable Catch Committee (TACC) for several years now has been the need for a Harvest Strategy for the abalone fishery. Despite an initial attempt at drafting a Harvest Strategy for the fishery it has not been progressed further.

A well drawn up Harvest Strategy for an abalone fishery would be beneficial for the future management and enhancement of the fishery.



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In conclusion, there are many challenges facing the Abalone share-managed industry and much confusion and disappointment amongst current shareholders. Lack of communication and lack of time-framed outcomes is ongoing. The costs of running a viable share-managed abalone small business are considerable and the premise offered under the Commercial Fisheries Reform documentation to prospective share-managed fisheries that “the NSW Government is committed to securing a sustainable, viable and healthy fishery for NSW” is not a commitment currently being demonstrated to the NSW Commercial Abalone Industry.

Yours sincerely, AANSW Committee and Members

**2. Mr. Hansen page 9 in transcript states** ‘that the 16 million would have been an educated guess as to what would have been required to ensure a smooth transition of shares’

**Comment: The decision for 16 million was the policy statement by the NSW Liberal National Party before the 2011 election. It was not a decision of the SARC or the Independent Review committee in March 2012.**

**We did not get the two step process as the “better approach” stated in the productivity report August 31<sup>st</sup>.**

**Quote Productivity Commission Report:**

“The experience of Australia and overseas suggests that a better future approach would be to separate the process into two steps:

- 1) the first would be to either rescind all fishing rights or reduce latent effort through a bidding system; and
- 2) only once the level of entitlements has been reduced (or removed) would fishing businesses be permitted to participate in a market process to trade rights.”

because there was not enough money put forward for such a major structural adjustment .

**Comment ‘ Senior Manager Doug Ferrell stated on 4th July 2014.’**

“Dr. Ferrell agreed that the Government is deliberately using uncertainty to drive prices down as the government is trying to make “best Use” of the money that is insufficient for this purpose.”

He also stated –“DPI’s instructions from Government were to make the \$16m go as far as it can go. So the process won’t be generous and it will be made to benefit those left in the industry.”

**Dr. Ferrell also stated**

“Major issue with exit grant is that people will get exit grant monies and then have govt. funds to go buy more shares □ profiteering. Dr. Ferrell advised that it is almost impossible for DPI to stop the profiteering.”

INDEPENDENT REVIEW OF NSW COMMERCIAL FISHERIES POLICY, MANAGEMENT AND ADMINISTRATION March 2012

Page 75 of the same document states:

On balance, while acknowledging that if there were more time and funds available merging share classes prior to linking would be a preferred option, the Review Team recommends delaying large scale merging of share classes at this time.





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“Shifting from the current share structure to a system of meaningful property rights, given the level of funding available and the extent of the misallocation and misalignment, is problematic and will cause considerable hardship, regardless of the method chosen.” 3.6.10

#### Page 79 The role of catch history

Catch history has long been used as a criteria for the allocation of fishing access rights, and the circumstances of its use (or non-use) in most NSW fisheries has been covered in previous sections. In considering structural adjustment options, those most likely to be severely affected are fishers that have undertaken considerable recent fishing activity, maximized the benefits from their existing shares, invested in additional shares/infrastructure, and built viable fishing businesses. Under any linkage arrangement, they will be faced with the need to purchase considerable numbers of shares to remain viable, which in some cases, would result in their leaving the fishery.

DPI stated in submission on page 8 of 13 that

“High rates of alleged non-compliance - the excessive regulation that is required because of the reliance on input controls to manage catch means some fishers perceive that they cannot operate legally and earn a reasonable return. Of approximately 1,100 licenced fishers, nearly 75% have been issued a written caution, penalty infringement notice or had prosecution action instigated against them within the last 5 years.

Mr. Cartwright had also stated this is in the Hansard transcript for the inquiry page 21 on Monday 12<sup>th</sup>.

**Comment: This above statement needs to be clarified. Many fishermen may have received a written caution, which could also include being late with catch returns. To put this all under the same umbrella of 75% is not providing a true picture. This statement is totally unacceptable. Detailed percentage information must be put forward to clarify this.**

#### Page 11 of 13 DPI in submission states

Fishing businesses are already getting ready for the changes - Many fishers have invested time, money and effort on the strength of the NSW Government’s announcements. Two thirds of the share classes that fishing businesses hold now do not need additional shares in order to continue fishing at their highest levels recorded in the past five years. Of the one third that need to buy more shares, more than half need 50 shares or less.

❑ Preview share trading market - 452 businesses registered for the preview share trading market that was held in November 2016. This provided shareholders an opportunity to practice placing bids and offers and see how the program works.



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**Comment:** The preview share trading market was on the 17th October 2016 not November. The share trading register on line as of the 5th December 2016 does NOT reflect what Mr. Hanson is stating. As an example on the 1/8/2016 region 4 prawning there were approx. 95 shareholders with 125 shares and 21 with more than 125 shares on the 5/12/2016 region 4 prawning there were approx. 73 shareholders with 125 shares and 36 with more than 125. The new minimum shareholding for prawning is 150 shares. There is 142 prawning fishing business in region 4. Two of those shareholders have approx. 13 lots of 125 shares each. One shareholder has 1687 shares one has 1500 shares, one has 563 shares, 9 have 250, 2 have 175, 24 has 150 and 73 have 125. The share trading market will only allow you to purchase an additional 25 shares. Those that have many multiple shares will have many extra balls in the ballot. Those that have waited for the share trading market will find it difficult to compete when others have the extra balls in the ballot. This will affect their return on investment.

**Quotes cont.:**

**Page 13 of 15 DPI in submission states**

The reviews include report on the performance of fisheries management in NSW Stevens 2005 Attachment 5.

**Comment:**

**This report above was never made public or provided to stakeholders, why?**

**Page 13 of 13 DPI states in submission**

An independent review of the NSW Government's approach to implementing the structural adjustment program has also been undertaken by Professor Jacob Goeree. The market design to be used by DPI Fisheries meets the recommended structures listed by Goeree. However, there are two areas where the implementation of the program has deviated from Goeree's recommendations to enable prioritising of subsidy to active fishers and those with a share deficit in line with industry feedback:

- Removal of some flexible (contingent) offers - the types of bids that were allowed within the market needed to be kept simple to reduce complexity and allow for flexibility for the market to find solutions. Package exit offers remain the only package or contingent bid type in the market.
- Transparent inclusion of additional constraints - an extensive suite of government objectives have been included that will, for example prioritise active fishers and satisfy as many exit offers as possible.

**Comment:** At no time has the Department ever explained these "two areas where the changes implementation of the program has deviated from Goeree's recommendations" Why are they only stating this in the submission? The question has been asked, why wasn't the industry allowed the conditional combinational market that was recommended by Professor Goeree? PFA was told the people doing the software could not do it,.

**Mr. David McPherson at the PFA meeting along with Darren Reynolds (Estuary general manager) on the 23rd September 2016 at Yamba when asked the direct question they did not give any indication of what Mr. Hanson has stated above. Why?**



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#### **Comment Cont.:**

The Productivity report August 2016 stated Scope for conditional bidding “Governments implementing reforms that fundamentally alter the nature and mix of entitlements for commercial fishers should consider trading systems that allow some conditional bidding. This would allow fishers to make their offers conditional on a desired outcome — such as the ability to sell all of their entitlements or to purchase a minimum package of rights. Without the ability to make conditional offers, commercial fishers may be unable to purchase enough entitlements to support the viability of their business, or to exit the industry. Either situation risks an increase, or continuation, in latent effort and inefficiency (at least in the short run)”. SO where will the guarantee be that we will not be left without enough entitlements.

#### **Quotes cont.: Page 11 of the DPI Submission Dec 2016**

ToR 1e (ii) and (iii) - the implementation of the restructure to date, and the impact on industry and regional communities to date, including economic, social and cultural impacts

#### **Key milestones and activities to date**

- Industry has repeatedly called for certainty. Since the announcement of the Business Adjustment Program in May 2016 industry has been responding - many commercial fishers have already started to adjust their businesses in the certainty of the new share linkage arrangements due to commence in 2017 and many other have been taking up the assistance measures.
- Key milestones include:
- Significant numbers of shares being traded – Since the announcement, share transfer applications have spiked up to three times as much as the average for the last ten years which has been around 20 per month. This represents more than 70,000 shares being privately traded. By investing now, all these businesses are sending the strongest possible signal that they intend to continue to provide seafood and support their communities.
- The share trading register at Attachment O provides a snapshot of the shares traded between 17 April 2016 (two weeks prior to the announcement) and 23 November 2016.
- Fishing businesses are already getting ready for the changes - Many fishers have invested time, money and effort on the strength of the NSW Government’s announcements. Two thirds of the share classes that fishing businesses hold now do not need additional shares in order to continue fishing at their highest levels recorded in the past five years. Of the one third that need to buy more shares, more than half need 50 shares or less.
- Preview share trading market - 452 businesses registered for the preview share trading market that was held in November 2016. This provided shareholders an opportunity to practice placing bids and offers and see how the program works.
- Training for subsidised share market - More than 300 fishers attended training sessions for the subsidised share trading market delivered along the coast.
- Fishing business buyouts - 115 applications for fishing business buyouts have been submitted and continue to come in.



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**Quotes cont:**

**Page 8**

States over time there had been a downward trend in the number of fishers who are active within the industry

**Comment:**

**Can we have proof of this?**

This has not been established with a paper trail. SARC's Final Recommendations September 2015 clearly does not marry up with what the DPI submission states.

**3. Trading/Positioning Page 10/82**

Reform Page 10 of 82 Acceptance by the Government of the Independent Review in 2012 sent a clear signal to industry that as intended, in the original introduction of share fisheries, shares would be the primary mechanism for determining access.

Since that time, and particularly since mid-2013, there has been significant share trading. Between 12 November 2012, when the decision to proceed to share linkage was announced, and 22 September 2015, 133,392 shares have traded. The value of these trades, based on prices reported on the DPI transfer forms (including stamp duty) is \$8.33 million, noting that some trades did not report a price. However, if the maximum reported share value is applied to those trades that did not supply a value, then the potential value of all trades, including stamp duty, is \$17.09 million. This trading activity has changed the share/catch profile of some share classes.

Much of this share trading is likely to reflect attempts by fishers to position their businesses to better deal with the implications, through investment in shares, in anticipation of share linkages.

Arguably, Government through its policy statements and commitment to the reform has created a reasonable expectation that share linkage will occur and people have made investments in reliance of those statements. Not proceeding with linking shares could therefore elicit legal challenges.

Clearly DPI needed to read the SARC report. Now just have to find same statement from Minister.

<https://www.parliament.nsw.gov.au/committees/DBAssets/InquiryEventTranscript/Transcript/9855/Transcript%20-%202012%20December%202016%20-%20Uncorrected.pdf>

**From Transcript 12 December 2016 DPI**

**Page 7**

Whilst Government's engagement in that trading market through the subsidy program has been delayed in time over the last few years, the industry has not been delaying its reform efforts and reform process, with just under 20 per cent of all available shares trading since May this year. The industry is moving forward as it recognises and sees the options and available opportunities. We are keen to make sure the government is well positioned to provide the subsidies and assistance to the active fishers to make the reform transformation as smooth as possible as well as moving as quickly as possible to turn on the linkages and set in place the new regulatory arrangements that start to deliver some of the promised benefits.

**Comment:**

Here they are saying it again, with just under 20 per cent of all available shares traded since May this year. The share trading pages on the DPI web site do not reflect what is being said by DPI.



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Page 9

Transcript quotes:

The Hon. MICK VEITCH: I refer to the \$16 million in funding. The Committee has received submissions stating that that is not enough. How was that figure arrived at? What was the rationale behind determining that that was required?

Dr. ALLAN: I am not aware of the exact analysis; that predated me.

**Comment: Dr. Allan has been employed by DPI for a long time and he states he does not know the exact analysis of the 16 million.**

**The Hon. MICK VEITCH:** I am happy for you to take the question on notice.

**Dr ALLAN:** I will.

**Mr HANSEN:** It is probably worthwhile to connect that with the comment I made in my opening statement about how many shares have been traded without government assistance or subsidy in advance of the application of the subsidy. When it was determined that it would be \$16 million there would have been an educated guess as to what would be required to ensure a smooth transition of shares out of the hands of inactive fishers into the hands of active fishers so that they could maintain their level of fishing. As I said, since then up to almost 20 per cent of those shares have already changed hands without any application of the subsidy.

**The CHAIR:** In discussing whether the \$16 million was enough you made the point that since then a lot of share trading has taken place and therefore the number of people who want to be in the buyout scheme is reduced. Do you have any data about the relative value of the shares that are traded? I have some anecdotal information that one fisherman valued them at about \$750 a share. When that \$16 million was calculated, my memory tells me that the value per share was far less than that. I do not expect an answer now, but when answering the question on notice please elucidate with regard to the reduction in the number of businesses that will trade to indicate what you believe the rough market price will be.

**Mr. HANSEN:** Certainly. However, I will flag a limitation in that there is no legal requirement to report the price.

**The CHAIR:** I understand that. Mr. HANSEN: That means the prices we are told will sometimes reflect internal transfer pricing, ambition rather than reality—

**The CHAIR:** Correct.

**Mr HANSEN:** —and sometimes they will be an accurate reflection of the price at which someone has been prepared to buy or sell.

**The CHAIR:** At the end of the day, the Government will stand in the marketplace as a market disrupter; you will have to do that with the mechanisms. The Committee would like a rough estimate, and we would probably keep that information confidential because we do not want to influence the market. Perhaps you can take that into account when you answer that question.

**Dr ALLAN:** We could provide an indicative share price.

**The CHAIR:** That is all the Committee needs to know, and it will be kept confidential.

**Dr ALLAN:** There will be those caveats.

**The CHAIR:** I understand that.



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**Quotes cont.:**

**Evidence of SARC**

**Page 23:** As a review committee, we were unable to unscramble that egg. We could not just say we will not give any. A lot of fishers said, "Forget those people who have not used those licenses. Scrub the 35 per cent because they have never used them. Use it or lose it. 'The problem is that parliamentary records and legislation say they have a right, and you cannot just extinguish a right. Unfortunately, for active fishers, those inactive fishers did not use those rights or used them very little, but to then suddenly turn around and say we are going to allocate on catch history was not possible. That is the role that catch history had. But I understand now that the department, through the work of the Minister's office as well, has managed to modify the program to allow for active fishers to get the subsidy. Although it is not precisely catch history related, at least it says you get rewarded if you have fished and if you have not used it then do not expect government subsidy. If you like, the government subsidy is discretionary and you are having the discretion to give it to those active fishers. I state again it is not the aim of this program to remove active fishers.

It is to get the shares from inactive to subsidise the selling price so it makes it attractive for them and to reduce the buy-in price for fishers so that they can buy in and have a stronger right. It is not buying your job back. I do not know how many times I have heard that.

**Comment:**

**The First reform packages clearly stated the Maximum amount of Endorsements per region per fishery. The Liberal national party commitment clearly stated retiring of an Independently assessed number of Fishing Businesses'.**

Quotes cont:

**The Hon. MICK VEITCH:** What is your definition of an active fisher?

**Mr. CARTWRIGHT:** I would have probably raised the bar if it was me but they have said a kilo.

**Ms. SEN:** That was in the original allocation.

**Comment Can we have an explanation? What was in the original Allocation.**

**The Hon. MICK VEITCH:** A kilo of fish in five years or in one year?

**Mr. CARTWRIGHT:** I will take the question on notice for exactly what it is. As I say, we finished our work nearly 18 months ago. It was about a kilo in that particular fishery. If you have got a logbook and you write down "region 4 meshing" and you put down a kilo I suppose—it is unlikely you would, but they have to have a bar somewhere. I think one kilo just said you did land a fish in that fishery within I think the last five years. It was a fairly low bar.

**The Hon. MICK VEITCH:** But that is not the criteria that the Government is using. I thought it was to have fished 15 minutes in the last five years.

**The Hon. RICK COLLESS:** No, it was a kilo I think.

**Mr. CARTWRIGHT:** I think it was a kilo.



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**The Hon. GREG PEARCE:** You had to have caught something.

Quote cont.:

‘I would have probably raised the bar if it was me but they have said a kilo.’

‘I will take the question on notice for exactly what it is. As I say, we finished our work nearly 18 months ago. It was about a kilo in that particular fishery. If you have got a logbook and you write down "region 4 meshing" and you put down a kilo I suppose—it is unlikely you would, but they have to have a bar somewhere. I think one kilo just said you did land a fish in that fishery within I think the last five years. It was a fairly low bar’

**Comment:**

**This is not correct. Attached is the extract from email to Region 4 fishers.**

Quote:

Regarding 'activity' as it relates to the subsidised share trading market please see the following information.

‘Active’ fishers in each share class will be given priority access to available shares, and will also have the cost of shares purchased subsidised by the Government.

To be considered ‘active’ a business must have reported fishing activity in a share class over the last five years, from May 2011 to April 2016 inclusive, or acquired, as part of the fishing business buyout process, all shares held by the previous business in a share class that are considered ‘active’ as per recorded activity. These assessments will be based on mandatory catch records received by DPI before 31 May 2016.

Janine Sakker | Snr Fisheries Manager

Commercial Fisheries

Department of Primary Industries

NSW DPI | PO Box 4291 | Coffs Harbour Jetty NSW 2450

T: | M:

E: W: [www.dpi.nsw.gov.au](http://www.dpi.nsw.gov.au) |

**Note:** As above stated did not even have to catch anything just record an event. Clearly this decision is one that has left many mystified as to how this can be. However on the 5th August 2016 a text was received along with an email from the PFA which stated something different.

**SUBSIDISATION PROGRAM** PFA understands that the DPI is still working through the details of the Subsidisation Program – we expect that the details of the program should be out within the next few weeks. For the purpose of the Subsidisation Program, DPI has defined an ‘active’ share class as a Business with any reported fishing activity in that share class (for example, 1 kilo of catch or 1 day of fishing) over the last five years, from May 2011 to April 2016, that has been reported through the catch records. The catch records must have been received by DPI before 31 May 2016. PFA members have raised concerns about being able to check that the shares that they are purchasing are considered “active”. PFA has requested that the DPI assist fishers to be able to validate that the shares they are purchasing are considered active. I understand that the DPI is looking into this.

No explanation has ever been given for how the DPI arrived at this decision. Even the DPI Senior Fisheries manager had to take the question on notice and send the email days later. Noticed that there is no mention of the 1 kilo.





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Quotes cont.:

Page 25

**The Hon. JOHN GRAHAM:** That goes to the reform in general—I accept where you are heading on that—but what is your view about the status of the resource assessment tools that are there and those methodologies, given the significant change this represents to the industry?

**Mr. CARTWRIGHT:** I must state that I do not have direct knowledge of the assessments themselves. I have a lot of knowledge of the abalone and lobster assessments because, as I say, I sat on the committee for nearly 10 years deciding the TACs. It is clear that there has got to be a lot of work done and I think at some point there has been a suggestion about more money will make it easier. But I will ask Ms. Sen to comment, if you are interested, about the \$16 million. Certainly some resources will be needed to make sure that you have got the best available science to set these catches at sustainable levels.

**The Hon. JOHN GRAHAM:** That is crucial to make this work?

**Mr. CARTWRIGHT:** Absolutely crucial to good decision-making is good information.

**Ms. SEN:** I agree. I think it is a separate issue about the \$16 million being enough, but in terms of what Mr. Cartwright was saying about having good information it is absolutely critical.

Page 26

**Ms. SEN:** For this part of the reform program, if we exclude what Mr. Cartwright was talking about putting more money into research and possibly the TAC committee set in process, we did look at the figures a lot and we modelled all sorts of possibilities and we looked at how CHAS needed to trade against and from fishing business to fishing business I think \$16 million is enough for this stage of the program.

**Comment Above. Certainly some resources will be needed to make sure that you have got the best available science to set these catches at sustainable levels.**

**The Hon. JOHN GRAHAM:** That is crucial to make this work?

**Mr CARTWRIGHT:** Absolutely crucial to good decision-making is good information. Why have we not got the resources?

**Comment:**

**What does “I think 16 million is enough for this stage of the program? What does ‘I think’ mean and what does ‘this stage of the program mean’?**

DPI answer to Supplementary Questions 16/12/2016

Question No 5,6,7 Regarding Priority

Answer: The NSW government will ensure that the probity principles are adhered to throughout the BAP.



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**Comment:**

**How can anyone have any confidence in this statement above, when on page 66 Independent review of NSW Commercial Fisheries Policy Stevens, Cartwright and Neville March 2012 stated, “Agreements whereby FB owners who accepted buyouts were restricted in their operations in the fisheries they were removed from, a period of five years to reduce effort flowing back into those fisheries? While the extent of the return of fisher after taking a buyout is not accurately known because business structures are often difficult to untangle, best estimates (from Dep) are in the 11 to 20% range. What is to stop this from happening again, many more shares have been trading months before the Minister made his announcement?**

**Quotes cont.:**

Response to DPI Supplementary Questions dated 16/12/2016 Question 13 and 14 Status of Fisheries resources in NSW 2008/2009. Extract Page! Foreword by the Minister Steve Whan

I am pleased to introduce the ‘Status of fisheries resources in NSW 2008/09’. This report updates the status of all species initially assessed in 2006/07, and includes a number of additional species which are significant to the marine commercial and recreational fisheries of NSW. This document and its web-based publication mark an important component of the reporting requirements for the fishery management Strategies of NSW’s commercial fisheries. It provides a method to ensure that one of the key goals in these strategies is met – “to maintain stocks of key species harvested by the fishery”. I am pleased to advise that the NSW Government and industry & investment NSW ( I & I NSW) are committed to conducting and publishing these resource assessments for key species on a regular basis. The report also supplements the I & I NSW annual report by providing a detailed summary of the available catch and biological information for each important species.

**Page v**

This report is published every two years to meet public reporting requirements for the estuary general, estuary Prawn trawl, ocean hauling, ocean trawl and ocean trap & Line fisheries. The last version of the report (Status of fisheries resources 2006/07) was released in 2008.

**Page vi**

The assessment of species as ‘uncertain’ or ‘undefined’ should not be interpreted to mean that these species may be under threat from overfishing, as many of these species are landed in very small quantities by commercial and recreational fisheries. Similarly, these species should not be considered as only ‘lightly fished’ until sufficient information is available to undertake a proper assessment. The information reviewed for each species during the status assessment process is used to prioritise future biological research, to ensure that the necessary research is directed at the most important species in the ‘uncertain’ and ‘undefined’ categories.

**Page x Harvest Comment** “Significant commercial and recreational fisheries occur in NSW which is at the southernmost extent of the species’ range. Local biological information has not been analysed in detail.” Assessment ‘Undefined’ (In 2008/2009)

**Page 148**

Recreational catches of giant mud crabs are also significant, and in some areas outweigh the commercial catches.



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**Comment: Why has there not been any priority to do research on the Mud crabs well before going to Quota?  
Giant Mud Crab Page 147,148,149,**

Foreword by the Minister

Page iii

The NSW Government is committed to better research and management of our aquatic resources which are owned by the whole community.

**Comment: who can be comforted by the information detailed in this report indicating that they continue to be well managed for sustainability as well as for the economic benefit and enjoyment of the people of NSW? This ongoing series provides an important mechanism that the public can use to evaluate the continued success of our fisheries management initiatives here in New South Wales.**

Quote

**Executive Summary:**

The Status of Fisheries Resources in NSW report is published periodically to meet public reporting requirements for the Estuary General, Estuary Prawn Trawl, Ocean Hauling, Ocean Trawl and Ocean Trap & Line fisheries. The last version of the report (Status of Fisheries Resources 2008/09) was released in 2010.

**Comment: This report 2013/2014 was not written until late 2015. To our knowledge it was not on the web site in 2015. Note above "The Status of Fisheries Resources in NSW report is published periodically" Compared to the last report by the then Labour Government 2008/2009 that stated as above "This report is published every two years to meet public reporting requirements for the estuary General, estuary Prawn trawl, ocean hauling, ocean trawl and ocean trap & Line fisheries. The last version of the report (Status of fisheries resources 2006/07) was released in 2008.**

The Liberal National Party came in to government in March 2011. Closed Cronulla Fisheries Centre of Excellence. No Full Status of Fisheries resources in NSW had been done. Since 2008/2009. It was due to be done in 2011/2012. The Government stated they were committed to a Major restructure of the States Commercial Fishing Industry yet does not do a full complete report, above states 'that it will only be done periodically.' (Not Bi annually as the previous Labour government.) No references or scientific studies have been done on this species even though it is going to Quota. This is not acceptable. NSW is the only state that classifies Mud Crab as undefined. The rest of the states Mud crab is Sustainable. In addition the Queensland Government has done a number of scientific studies.

Status of fisheries resources in NSW 2011–2012 summary May 2014

Status of fisheries resources in NSW 2012–2013 summary February 2015

**Comment: The above Annual report 2011/2012 report not available until after May 2014 and the 2012/2013 report not available until after February 2015. Both were very short summaries without much detailed information. In addition The 2011/2012 report was not made available publicly until after we received the first reform packages in April 2014. Only one full complete Status of Fisheries resources has been completed by this Government. They have been in Government for almost 6 years.**



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Question 16

**Comment:** To our knowledge the McKoy and Stokes report May 2016 has not been made public.

### **DPI Records:**

#### **Evidence of DPI Questions and Answers! The questions were as follows:**

23.Q Did recreational and commercial create and sign off on an estuarine management plan in, or around, 1995 in region 7?

**A DPI Fisheries does not have responsibility for estuary management plans.** Ocean Hauling Fishery FB"s with Shares from 2007 to 2016

24. Q Was the plan meant to be the forerunner of all fisheries management plans in a share managed fishery?

**A. DPI Fisheries does not have responsibility for estuary management plans.**

25. Q .Was that plan based on sustainable fishing practices and output controls with various trigger mechanism that could see the plan reviewed.

**A. DPI Fisheries does not have responsibility for estuary management plans.**

26. Q. What were the trigger points and how were they established or recognised?

**A. DPI Fisheries does not have responsibility for estuary management plans.**

27. Q Are such triggers points in present management plans?

**A. DPI Fisheries does not have responsibility for estuary management plans.**

#### **Comment:**

**We are of the view that the questions was in relation to NSW Fisheries Share Management Plans that are regulated in the Fisheries management Act. If this is the case then NSW Fisheries do have responsibility.**

**We are aware that there are Catchment Management Estuary Management Plans that were developed such as for the Hawkesbury River under the Hawkesbury Catchment Management Authority at the time.**

**Local Land Council and Local Government Estuary Management Plans as well.**

**NSW Fisheries does not sign off on these.**

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DPI Scott Hansen and Ian Cartwright saying that over 75% have had an offence and cannot work legally. 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.



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Re question on Trigger points example:

What was the trigger points? There are trigger points in the DPI Share Management Plans.

Examples:

a) 2011/2012 document Page 27.28 (Average Market value of OH Shares when traded) Trigger point to be determined in two years. Plus look at compliance? Plus look at Page 36, Shareholders and endorsed fishers EPTF 2012 also page 13/14. See attachment:

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Page 5 point 3 from Kate Barclay's submission re socio impact assessment as a matter of urgency with an emphasis on assessing the differential impacts of the adjustment program across the industry and wider community. This I believe could be included in "plan B"

Page 20 from the Transcript 12th December 2016

**Associate Professor BARCLAY:** I can imagine that might be part of it. I am not so familiar with the rock lobster fishery in New South Wales. Another fishery that I have looked at in more depth that moved to a quota fishery was Southern Bluefin Tuna where again that ended up, for the companies that stayed involved, leading to a very successful fishery but it consolidated the fishery a lot. The type 'Bs' all disappeared out of that fishery. I am not saying that means that would happen here; I am just saying that things happen with reforms. **Businesses don't end up getting through and that would happen again here but you would need to do a social impact assessment to understand exactly which people were going to be excluded.**

---

Page 5 point 3 from Kate Barclay's submission re socio impact assessment as a matter of Urgency with an Emphasis on assessing the differential impacts of the adjustment program across the industry and wider community. This I believe could be included in "plan B"

Comment:

How can anyone have any confidence in this statement above when on page 66 Independent review of NSW Commercial Fisheries Policy Stevens, Cartwright and Neville March 2012 stated "Agreements whereby FB owners who accepted buyouts were restricted in their operations in the fisheries they were removed from a period of five years to reduce effort flowing back into those fisheries. While the extent of the return of fisher after taking a buyout is not accurately known because business structures are often difficult to untangle, best estimates (from Dep) are in the 11 to 20% range. What is to stop this from happening again many more shares have been trading months before the Minister made his announcement?"

2. **Mr JUSTIN FIELD:** One of the other critical questions you have raised, and has been in a number of submissions, is the suggestion of insider trading. Ms Elliott, you indicated that the intention of these reforms basically was made clear in 2005?

Please see Conclusion and SIAC outcomes, PFA Not to be disclosed, attachments and minutes. Graphs of trading that can be traced to specific individuals if necessary.

See 7g Confidential SIAC Birth of the Reform (Submission to inquiry volume 6)  
PFA Minutes 'matters Not for Disclosure'



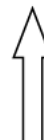


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**PUTTING CONSUMERS 'THAT'S YOU' IN THE PICTURE**  
**NSW COMMERCIAL FISHERIES MANAGEMENT - COMPARING GOVERNMENT PROCESS.**  
 2016 NSW Population 7.1 Million consumers Recreational fishers 850,000

Sustainability adjustment

Viability adjustment

<b>When a CARTEL is NOT A CARTEL because it is created by state government</b>		
<b>Commercial fisher's economic decline.</b>	<b>Recreational fishers 'boast'</b>	
<b>Their economic return to Government.</b>		
1990 .....37% of commercial fishers are removed	4600 to 2300.	
Licenses restricted and capped.	Recreational never capped.	
1998..... Commercial Harvest 26,000 Tonnes.		
Commercial fishing Restricted in Recognised Fishing operations		
'CFAC'.	'RFAC'	
<b>Richard Stevens and Graeme Byrnes advisory committees.</b>		
<b>Who instigates Reform Proposal and why?</b>		
2002 .....30% NSW State rivers estuaries and lakes become Recreational Fishing Only		
Havens, removing hundreds of fishers, nets and effort		
2004 .....Recreational fee pays for removal of commercial fisher's		
Government created trust process.		
'SIAC'	'ACORF.'	
<b>REFORM by who, why?</b>	<b>Graham Turk NSW SIC.</b>	
	<b>Fishers to be removed</b>	<b>Graeme Byrnes Structural adjustment committee</b>
	50 % active 100% latent removal	
2006 .....Recreational fishers boast increase in economic return.		
2014.....27% State coastal waters in Marine parks and Aquatic Reserves.		
'MFAC'	'RFAC'	
<b>REFORM by Who and why?</b>	<b>Graham Turk NSW SIC.</b>	<b>Graeme Byrnes Structural Adjustment continues</b>
* 2015 ..... Harvest 11,000 Tonnes	=	85% seafood consumed is imported!!!
2016.....less than 1000 Active commercial fishers are left.		
REFORM: now progresses in a manner that equally allocates catch history across like		
fishing methods in estuary general fisheries.		
REFORM: Creates new minimum share requirements for most fisheries.		
Forces shareholders to try to buy back shares for viability while at the same time		
reducing viability.		
Pre involvement in decision making process.		
Inside knowledge of long serving committee commercial fishers.		
Share trading pre controlled trading process.		
Long term involvement of independent chairs and advisors.		
Commercial fishers have EIS	Recreational Fishers still no EIS.	

Recreational representatives lobby government to remove commercial fishers.

ACCC doesn't apply even though some points that are illegal in a private CARTEL are excused if you sit in government committees and comply with the NSW Fisheries Management Act 1994 and 2015 amendments for example:  
 Locking up resources because they interfere with normal supply and demand forces and can effectively lock out other operators from access to resources and distribution channels. Destroying other businesses by controlling markets and restricting goods and services to the point where honest and well-run companies cannot survive





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5.

**Mr JUSTIN FIELD: Mr Braithwaite, you were on the Seafood Industry Advisory Council [SIAC] and those minutes were public. I am trying to understand how insider trading was able to happen when there is quite a bit of knowledge about the process within the industry**

Gary Braithwaite

Could you please put the below answer to the Question of insider trading in for me.

The answer to the question of how insider trading was able to happen is easy, many of the meetings that were held by sub committees were held under Parliamentary privilege (or that was what we were told)

At one meeting that I attended we were told it was under Parliamentary privilege and if we could not keep it that way we were told to leave the meeting and at the end of that meeting even all the paper work that was given to us was taken back, even where we had made notes for our own recall were taken back, Mr Hans Heilpman was the Chair at these meetings. To my knowledge NO minutes to these meetings were ever made Public. A number of Meetings held by SIAC were held when SIAC's member ship tenure had ceased, even that of the Chair and I had made The Chair aware of that fact. A number of crucial votes were made by the SIAC committed when there tenure had ceased, but the public or the Commercial fishers were never made aware of this fact.

Kind regards

Garry Braithwaite

OT&Line FB 1447

Attachments





Garry Braithwaite

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The Chair  
The Hon. Robert Brown MLC  
General Purpose Standing Committee No 5  
Parliament House Macquarie Street  
Sydney NSW 2000

Re Supplementary information to my submission and questions asked of me by the committee on inquiry into Commercial Fishing.

Dear Sir/Madam

I wish to clarify some of the answers I gave to questions the committee asked me and as you asked give your committee ideas on how to fix the problems outlined by commercial fishers with the proposed Structural reforms planned for our industry.

1. DPI has NO idea of the link between The OG1 endorsement attached to NSW Licenced Fishing Boats (LFB) and the Offshore Constitutional Agreement (OCA1991) and that all catch history attached to that vessel may be split between NSW State Waters and Commonwealth Waters(waters outside 3nm).

Attachment cont:

With the reforms DPI is buying back Fishing Business and not the LFBs by doing this they have NOT bought the Commonwealth entitlement nor any of the catch history of that Fishing Business as it is attached to the Licence d Fishing Boat (Boat History).

Fishers that have bought shares for Line East in the OT&Line fishery thinking they have the catch history, but this is not the case.

Anyone buying Shares in the OT&Line Fishery are NOT necessarily buying the Catch History!

I am of the opinion that DPI is trying to muddy the waters so as the OCS can never be extinguish or that if it were the the Commonwealth would have to take all NSW commercial Fisherman into the Commonwealth fisheries and NSW would declare all waters inside 3Nm as Recreational Fishing Havens.

The OT&Line Fishery management Plan was designed so as NOT to redistribute wealth, the plan DPI has will do that in a devastating way with their proposed restructure of our fishery, this goes against commonwealth fisheries management thus is another breach of their obligations under the 1991 OCS.



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In my opinion the Proposed Restructure needs many aspects of it closely discretions to do this the following needs to be done.

- Halt the reforms until the following is done.
- Reinstate the MAC s to consult on the problems I and many other Fisherman have outlined to your committees
- Make DPI accountable(no more open ended disclaimers)
- DPI must adopted a business charter as the Australian Fisheries management Authority has.
- Adhere to ALL their obligations as to the 1991 OCS with the Commonwealth.
- Investigate the questionable actions of Seafood Industry Advisory Council and the gauging of the MAC`s (breaches of the Fisheries management Act)

It should be noted All NSW Commercial Fisheries have Fisheries management Plans , Fisheries management Strategy and EIS,s in place as living documents and that The Recreational Fishery has NONE of the above ,wouldn`t you think that all activities impacting on the sustainable of Fish stocks should have to meet the same \stringent criteria as we do!

Please do not hesitate to contact me if you require any explanation to the points or suggestions that I have raised to deal with the mine field DPI has put Commercial Fishers in.

Yours Sincerely  
Garry Braithwaite  
FB 1447  
OT&Line Fishery

2

This brings me to the problem that many Fisherman has with DPI Fisheries, they have to be made accountable for their actions by legislation. They should also have to have a Client Service Charter similar to what the Australian Fisheries Management Authority has, copy attached.

I hope you can clear up the concerns I have raised and if you or your office wish to discuss any of the above with me please do not hesitate to call me at your convenience.

Yours sincerely

Garry Braithwaite



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*Garry Braithwaite*

1<sup>st</sup> March 2015

Re: NSW DPI Fisheries

Mr Andrew Constance MP  
Member for Bega  
Minister for Industrial Relations  
NSW Treasurer  
PO Box 758  
Bega NSW 2550

Dear Minister

I am compelled to make you aware of a number of grave concerns that I have with the conduct of NSW DPI to do with the NSW Seafood Industry Advisory Council (SIAC) and the drawdown of funds from the Commercial Fishing Trust.

1. Meetings of SIAC were held after the membership of that committee had expired. At those meetings important votes were taken on Structural Reforms to the NSW Fishing Industry and other agenda items by a council who's membership had expired and were put out to the Fishing Industry and Minister Ian Macdonald as being from SIAC. SIAC did not exist as their membership had expired so they had NO legal right to hold meetings or vote on any issue and say it was a recommendation from the SIAC!! To add to this the people attending these meetings were paid as SIAC members, would that not be misappropriation of funds or fraud?

2. As it was a requirement of the Act that for funds to be drawdown from the Commercial Fishing Trust they have to be ratified by SIAC which was made up of a member from each Management Advisory Committee for each NSW Fishery, DPI Representatives and other advisors.

As SIAC and the MAC's have been disbanded WHO has been ratifying the drawdown of funds from the Commercial Fishing Trust for the Commercial Fishing Industry as per the Act?

Or has DPI just been drawing down funds from the Trust as they see fit which would be in contravention of the requirement of the Act?

It is impossible to get answers to any of these questions as I have found time and time again if the answer is not in line with what their agenda is they just do not answer your correspondence!!



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3. **I want to focus a bit more on the current restructuring that we are looking at. If you think this is commercial-in-confidence or something please feel free to say so, but do any of you have to buy shares to continue in your current businesses?**

**Dane Van Der Neut- Operates in a partnership with his father Tom Van Der Neut. We have invested in more shares, I personally now have 200 shares in my name. I cannot see myself getting a return on the extra 50 shares. We have bought another trawler, which we believe we will see a return on.**

Mary Howard - The request was for purchases of shares in the last two years.

Reply:

Yes, as indicated, G.G. and M. Howard have purchased an inactive Hawkesbury River Estuary Prawn Trawl shares package of 150 – we transferred them to one of our two endorsements which therefore brought that one to 300 shares. (We then sold at cost 50 of those shares to another fisher – this brings that fisher to 200.) We will now transfer 50 of the shares to our other business so we secure our two businesses that will again be able to work after 1st July 2017. Until that time, we consider our businesses have been totally devalued and have been constantly devalued by government policy and management for over twenty years.

We have taken from our current investments after adjustments \$40,000.00 (recouped \$20,000) we do not believe that there will be any increase in catch or income with our long term ability to catch prawns by making this transaction. Nor do we believe that this makes our operations more secure. Essentially this is a movement from our current assets account into risky fixed asset that we already owned that has less security and is clearly governed by political lobbying of organisations such as the Australian Fishing Trade Association who consider they have a right to determine the rights of access of commercial fishers to the fishing grounds in this country. This needs addressing specifically in the terms of trade organisations influencing the supply of seafood to consumers in NSW and Australia in general. If this practice of allowing other to financially benefit who are involved benefiting from the reduction of commercial fishing the ACCC needs to be contacted. We make you aware of this issue and it is our will that you as a government be fully aware of the ramifications.

We consider the share purchase is an unnecessary forced compulsory purchase to reinstate both our businesses to the pre May position. While the process continues the past objections to issues has always meant the commercial fisher loses his rights. We refute the statement that the process is not about taking fishers out of the industry. From the IICALS to the design of the program it is about removing commercial fishers. The Reform makes it very clear, invest money or get out. The ITCALS make it very clear how many removals are planned, there is NO clarity into who gets a Guernsey and who doesn't with what is left.

**Reply**

**Heather Elliot-**

**No Purchase of shares due to BAP**

**Garry Braithwaite-**

**No purchase of shares due to BAP**



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4. **The CHAIR:** Before I move on to questions from The Greens, I have your summary document and the list of recommendations, Mr Van Der Neut. The first item on your agenda, the reforms to be stopped and removed from the Government's agenda, I take it that Wild Caught decided that putting an absolute position was the best way to go. I have been in politics a long time so I can tell you that there is a very high chance that the Government, irrespective of the recommendations of this Committee, will not stop the reform. Given that, do you have a plan B?

**The CHAIR:** I understand. Will you take on notice and supply the Committee with recommendations that will reflect Wild Caught Fishers Coalition's objectives given that the Government continues with the reform, including timing? I would like you to comment on suggestions from Mr. McEnally about staging.

### **Plan 'B'**

#### **WCFC RECOMMENDATIONS**

##### **Background**

In the 1980's the commercial fishing industry in NSW had no regions and no methods, meaning that a fisher could fish almost anywhere in NSW using any method. With almost 4000 fishers at this time and very little had been done about by-catch. The 1994 Fisheries Management Act was drafted to tackle these issues, at this time most of the seafood consumed was Australian.

Since the Fisheries Management Act was gazetted in 1994 several changes have occurred within industry;

- 7 regions have been established, regional management stops effort shift.
- Endorsements were created using the historical structure of our fisheries, endorsements created an effective cap on effort in the state.
- 27% of the NSW Rivers, lakes and estuaries are recreational only fishing havens.
- 37% of the state is Marine Park.
- Currently under 1000 fishers left in the state.
- 87% of our seafood is imported.

**With those points in mind Wild Caught Fishers Coalition makes the following recommendations.**



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## **WCFC Recommendations**

### **1. Share linkage**

The environment already determines catch, which is in fact an output control, an additional output control would be an unnecessary burden on the industry and coastal communities. The cost will largely outweigh the benefits if the loss of the public's access is considered.

- 1.1. Uphold current minimum shareholdings as the share linkage.
- 1.2. Implement total catch harvest strategy and assess sustainability accordingly.
- 1.3. Monitor the state total catch region by region annually.

### **2. Recognition and Compensation for share trading**

The Minister's announcement in May has led to the inevitable trading of shares prior to subsidy kicking in.

- 2.1. All share trading since the announcement in May should be subsidised through a voluntary buy back of those shares for those fishers requiring it.
- 2.2. Must not be a forced buy back of shares, must be a voluntary buy back to provide for fishers wishing to be compensated for forced investment into excess shares.
- 2.3. Does not stop fishers from leasing endorsements already purchased.
- 2.4. Must recognise all fishers catch history rights.

### **3. Commercial Fishing Trust fund**

The Commercial Fishing Trust has not been utilised correctly since its creation, it is essential that our industry has the ability to manage funds to benefit industry and other key stakeholders such as seafood consumers.

- 3.1. Establish an expenditure committee in an open and transparent manner.
- 3.2. Expenditure committee to approve funding for promotional projects.
- 3.3. Consult with industry for additional funding for promotion through levies.

### **4. Promotion**

The constant restriction, removal, restructures and reforms has led to a culture of issues including political management of the sector through the greed of other sectors that want exclusive access regardless of the impact on the seafood consumer.

- 4.1. Allocate \$5 million to the Commercial Fishing Trust fund.
- 4.2. Funding managed by Commercial Fishing Trust expenditure committee.
- 4.3. Projects need to promote the industry to the consumer and communities.
- 4.4. Visually promote sustainable fisheries and be proud to do so.





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## **5. Social Issues**

The constant mismanagement and denigration of this industry has created a culture of social issues in relation to the commercial fishing industry, it is not widely known that our sector complies with the Environmental Protection and Biodiversity Conservation Act or that every fishery has a Fishery Management Strategy underpinned by Environmental Impact Studies.

- 5.1. Create a system to deter fishers from repeat contravention of the Act.
- 5.2. Improve catch-reporting systems.

## **6. Independent Audit**

Fisheries management is not in good shape, industry has lost faith in senior management within the department which is detrimental for the management of fish resources. To fix this NSW fishers need to have an independent assessment of the regulatory system, research and the ability of senior managers to maximise the benefits of the fish stocks.

- 6.1. Independent review of efficiency and competence of senior managers in the Department of Primary Industries in NSW.
- 6.2. Review of the independence of consistent contracting of consultants.
- 6.3. Review of the impacts of the closure of Cronulla Research Centre of Excellence.
- 6.4. Transparent performance reviews annually for senior managers in DPI.
- 6.5. Set policy that ensures the employment of consultants for reviews and reports disallows ongoing employment of the consultant in delivering the recommendations or chairing subsequent meetings of management.

## **7. Seafood Consumers**

Seafood consumers have been forgotten when it comes to the management of the marine resource. Every loss of access for commercial fishers is amplified through the community and onto the seafood consumer. We now import 87% of the seafood consumed in NSW and the Department of Primary Industries haven't been held accountable.

- 7.1. Recognition given to seafood consumers as the largest user group of the resource.
- 7.2. Resource sharing policy to be developed recognising seafood consumers as the largest user.
- 7.3. Recognition for the fact that every closure or restriction on commercial fishing is a closure or restriction on seafood consumers.



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## **8. Recreational Fishing Only Havens**

Recreational Fishing Only Havens (RFOH) cover 27% of Rivers, Lakes and Estuaries in NSW, these areas exclude seafood consumers from accessing seafood from those areas.

- 8.1. Grant partial access to seafood consumers through commercial fishers in existing RFOH.
- 8.2. Independent audit into the impact of RFOH on seafood consumers.

## **9. Marine Parks**

**Marine parks make up 37% of NSW waters. What have they achieved? Who do they benefit?**

- 9.1. Rezone Batemans Bay Marine Park to allow prawn trawling on Long beach and netting in the Marine Park.
- 9.2. Rezone Port Stephens Marine Park to ensure more seafood is available for consumers.
- 9.3. Investigate Review options to restore consumer share of the resource with some commercial fishing in Recreational Fishing Only Areas such as example Lake Macquarie.
- 9.4. Provide scientific evidence that Marine Park and benefits outweigh the cost to the economy and seafood consumers.

### **Other Recommendations:**

- Social impact assessment of Business Adjustment Program.
- Probity audit of share trading since 2005.
- Annual detailed financial report requirement from DPI inclusive of a breakdown of costing and justification for those costings.
- Implement a structured fee system from recreational fishing to allow for better targeting of the black marketing of high value species i.e. Lobster, Mud Crab, Bluefin Tuna, Yellowfin Tuna, Kingfish and Snapper etc.

### **Government must acknowledge the positive benefits of;**

- An elected representative rather than a government appointed representative.
- Cohesion of industry at grass roots level.
- Regional elected member position held in all 7 regions.
- Strengthening unity and cohesion in all regions.
- Supporting fishers emotionally and generally, referring where needed.
- Facilitate communications & involvement in decision about their industry and region.
- All meetings minutes being accurate and verified to promote confidence.

Wild Caught Fishers Coalition (WCFC) prides itself in its ability as an organisation to consult members and non-members, act as a support base for fishers and lobby government. WCFC was created by fishers for fishers and will continue to fight for fairness and equity in policy making.

Yours Faithfully

Dane Van Der Neut  
WCFC President



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5. **Mr JUSTIN FIELD:** I wanted to extend questions to those fishers who fish in multiple fisheries. I understand where that concern comes from. I might not understand as well as the Chair. There is nothing stopping fishers, under the reforms, continuing to fish across multiple fisheries, though I expect the challenge will be affording sufficient shares to work across multiple fisheries?

**Ms HOWARD:** Correct.

**Mr JUSTIN FIELD:** Are there any fishers that you envisage will continue to do to? **Mr**

**BRAITHWAITE:** They will not be able to afford to.

**Mr JUSTIN FIELD:** Someone was saying they had eight endorsements. Clearly people have made a decision to hold a number of endorsements and minimum shares across a number of different fisheries.

**Mr VAN DER NEUT:** Ms Howard will talk about what we got from our fishers.

**Ms HOWARD:** I can but I cannot. Can we take that on notice?

### Reply

I have a file on member's current shares and their new requirements for shares that must be obtained too continue working to their existing level.

I would include this file however we have been requested to minimise the documents we provide to the inquiry. It is available if it is useful.

### Q

6. **Mr JUSTIN FIELD:** The Government would use the lobster industry as an example, which I appreciate is not a good example. It did explain to the Committee that because of the linkage between shares and quota in lobster it meant that the value of the licences had increased for the fishers that held them and because of the management of that fishery they were now catching almost twice as much and able to catch almost twice as much, so the financial viability of that industry had improved. What would be stopping—I know there is lag time as each of those fisheries is managed on a quota system—it becoming more valuable and the quota being increased for each of those shares across the different fisheries to rebuild the viability of those businesses? That is where the Government is heading by linking shares with effort or quota.

**Mr VAN DER NEUT:** I address it by saying the focus is on the wrong people. We are talking about the industry becoming more viable but it is going to be at the expense of the broader community who own the resource.

**Ms HOWARD:** Can we take that on notice? I would like to answer that in camera.

**The CHAIR:** If you give us a written answer and ask for the answer to the question to be kept in confidence the Committee will do so

### Reply

I have been advised that The NSW Lobster Industry had a significant black market of lobsters, that the growth of the lobster industry was inevitable due to this factor. Fishers forced to show their catch when once they did not. The Lobster fishery there for in its initial stages was flawed in growth of catch records. I have retained the fishers name quoted to me. If required happy to do so – will clarify connections.



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**7. The CHAIR:** We are just about out of time. I do not know if we have had an equitable share of questions but that is the way it rocks. Mr Van Der Neut, the last question asked of you was: What do we do about it? Your answer was: Oh, that's easy. The next five minutes of your answer did not say anything about what you would actually do about it.

Could you take this question on notice? When you come back to us with a rethink on your recommendations were the Government to proceed, Mr Braithwaite came up with a number of suggestions, and a couple of those are in here—the reinstatement of the MACs et cetera I take it was part of it—one of the questions we would like you to address if you could is how do you address the inequity of making sure that your activities are not spread across a range of amorphous groups and at the same time protect the interests of multi-endorsed fishers like Mr Braithwaite?

**Reply:**

Refer to question 4 See Plan 'B' recommendations

**Uphold the current share holdings and remove the requirement for changes to linkages.**

Yours faithfully

Dane Van Der Neut

President