

**Submission
No 44**

**INQUIRY INTO CLOSURE OF THE CRONULLA
FISHERIES RESEARCH CENTRE OF EXCELLENCE**

Organisation: Public Service Association of NSW

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Date received: 30/07/2012

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30 July 2012

The Director
Select Committee on Cronulla Fisheries
Parliament House
Macquarie Street
SYDNEY NSW 2000



Fax: 02 9230 2981

Dear Sir/Madam,

Re: NSW Public Service Association submission on the closure of Cronulla Fisheries

Please find attached NSW Public Service Association submission regarding the Parliament House Fisheries.

The submission addresses the lack of consultation with staff regarding the decision, the apparent lack of business case supporting the decision, the impact of the decision on the employees and the likely impact on skills retention.

The Association welcome the opportunity to discuss any of the issues raised in the submission with the Committee. Should the Committee wish to contact the Association, they should contact the author on 0418 227 977 or by email: sobrien@psa.asn.au.

Yours faithfully

Shane O'Brien
Assistant General Secretary

Enc.

Submission to the Select Committee on Cronulla Fisheries closure by the Public Service Association of New South Wales.

This submission addresses the terms of reference of concern to the Public Service Association of New South Wales (PSA) with respect to the decision to close Cronulla Fisheries Centre of Excellence.

In particular this submission addresses the following terms of reference:

- a. The basis for the decision including the documents and other records that were considered by the Minister, including any economic or financial analysis**

The PSA submits that the decision was based solely on the Government decision to move Public Service jobs into country NSW. The PSA has evidence that the decision gave no consideration to the economic and financial impacts of the move.

- b. What consultation was undertaken prior to the decision with stakeholders, including commercial and recreational fishing groups, environmental groups and staff**

The PSA submits that there was no consultation undertaken with the staff and the PSA prior to the decision being made.

- c. The costs and benefits of the decision to close the centre and relocate its functions to other locations**

The PSA submits that the consideration of costs and benefits of the decision were deliberately withheld from central agencies by the Department.

- f. The loss of the scientific expertise held by the staff who cannot relocate from Cronulla and the implications for sustainable fisheries management**

The PSA submits that the loss of expertise to the Department will be significant and cannot be replaced.

- h. The impact on staff and their families of the closure and the relocation**

The PSA submits that the impact on staff and their families is harsh, unreasonable and will result in unemployment being inflicted upon many people.

- a) **The basis for the decision including the documents and other records that were considered by the Minister including any economic or financial analysis.**

On 8 September 2011 staff were summoned to a meeting and informed by the Director General of the Government's decision to close Cronulla Fisheries.

In the notes for the Director General's address to staff regarding the closure and Decentralisation the rationale given was *(i)n response to the government Decade of Decentralisation Strategy an assessment of Fisheries organisational structure identified that improved efficiencies and cost savings could be significantly enhanced by aligning the delivery of services to regional areas. As such a proposal was approved by the Minister to close the Cronulla Fisheries Centre of Excellence to allow for a more holistic management of Fisheries services and functions in regional NSW.*

Verbal advice was given to staff in line with these themes indicating that there was an economic imperative underpinning the decision.

Further, staff were provided with a document from Trade and Investment titled "Some questions answered".

The answer provided to the question of the change occurring was:

There is a strong commitment by the NSW Government to decentralisation. In response to The Decade of Decentralisation Strategy, an assessment of the Fisheries activities carried out at Cronulla, identified that efficiencies and costs savings could be achieved by aligning the delivery of services to regional areas.

The PSA has obtained evidence efficiencies and costs savings will not be achieved by aligning delivery of services to regional areas;

- An upgrade of the aquaria had been completed by the previous government;
- The current Cronulla site is owned;
- Facilities do not exist in most of the nominated areas;
- Sea water quality is an issue at Port Stephens;
- Alternative accommodation would need to be found at each location;
- Transfer entitlements would need to be paid to staff transferring;
- Redundancy payments would need to be paid to those that could not relocate; and
- The NSW Government claimed that the site at Cronulla wouldn't be sold, meaning that the asset value would not be unlocked to offset any costs.

As a result of these concerns, the PSA sought a copy of the business case which was referred to in the draft Change Management Plan presented to the PSA.

On 27 October 2011, a meeting took place with Departmental representatives Mr Simon Kempson (Director of Human Resources), Mr Geoff Allen (Director of Fisheries) and Ms Erica Stafford (Human Resources).

At this meeting Mr Kempson admitted that there was no business plan.

Mr Kempson informed the PSA the decision was based on the Governments' desire to have more jobs in rural areas. As a result of this admission, the Department were

forced to remove the reference to the business case in the Change Management Plan as it did not exist.

A leaked document obtained by the *Sydney Morning Herald* confirmed the lack of financial and economic analysis that was undertaken by the Department prior to the decision being made.

On 20 February 2012 the *Sydney Morning Herald* reported that the bureaucracy working on the project *pushed to reclassify it from a 'major project' to a series of 'minor works' to convince Treasury to fund it and avoid having to present a business case.*

Further, *(T)he advice is contained in a leaked briefing note obtained by the NSW Greens, which also reveals the government had no clear idea of the cost of the policy two months after it was announced by the Minister for Primary Industries, Katrina Hodgkinson.*

The note, which was copied to Ms Hodgkinson, says the initial estimated \$2.9 million cost of the controversial plan had 'raised considerable inquiry from Treasury and it is clear that in its current form there is little likelihood of it being supported'.

The main reason for this was that the proposal did not have an independent business case, financial appraisal and economic appraisal, it says.

The way around the requirement was to submit the proposal as a series of individual projects, says Peter Lawrence, the manager for asset strategy in the Department of Trade and Investment.

'It is proposed to resubmit [the proposal] to Treasury as a series of minor works which will not require the preparation of formal business cases as well as economic and financial appraisals', Mr Lawrence says...".

On 26 July 2012, some 9 months after the announcement the *Sydney Morning Herald* reported that the Minister for Primary Industries had stated that a business case was now being finalised and the final cost of the decision depended on a range of factors including the number of staff who will relocate.

b) What consultation was undertaken prior to the decision with stakeholders, including commercial and recreational fishing groups, environmental groups and staff

No consultation took place with the PSA or staff prior to the announcement on 8 September 2011. Further, there had been no indication that a relocation of Cronulla was being considered.

The PSA learnt of the announcement when contacted by one of their delegates.

Under the Consultative Arrangements, the Government has an obligation to consult with Unions prior to any announcement of a decision of this nature.

A Ministerial Briefing Note to that effect was prepared by Mr Kempson, dated 5 September 2011. The Briefing Note outlines the basic principles of the policy, including, *(T)he Department must consult with the unions prior to the decision being announced to the staff and made public. The Department must then manage the industrial processes that follow.*

In response to the announcement, a submission was prepared by staff. The PSA forwarded the correspondence to the Premier, Deputy Premier and Minister for Primary Industries on 21 September 2012 with a request to meet and discuss the issues raised.

The submission outlined a number of staff identified deficiencies in the decision including:

- Reduction of service to stakeholder groups;
- Cost to tax payers of the move;
- Loss of expertise, particularly with respect to research;
- Loss of brand;
- Loss of facilities;
- Impacts on community; and
- Inability of staff to relocate.

Attached were letters of support from Australian and International stakeholders, a summary of media coverage for projects undertaken at the site over the previous five years and a staff survey outlining the preparedness or otherwise of staff to relocate, along with the reasons for their decisions.

The staff did not receive a response, instead an email was received on 10 October 2011. The email failed to address the request for a meeting between the Minister, the PSA and staff representatives.

The PSA met with staff again and a further request to meet with the Minister was sent on the 21 October 2011.

The Minister did not respond.

On 3 February 2012 the PSA again requested the Minister meet with the PSA and staff representatives.

The Minister did not respond.

In response to the failure of the Minister to engage in discussions with the staff, their representatives and the PSA, staff travelled by bus, at the PSA's expense, to Yass in a bid to meet the Minister in her electorate office. Prior to their arrival, individuals had contacted the office to arrange an appointment but were informed that their request should be in writing.

The Minister was not in attendance.

Outside of business hours on 20 February 2012, three staff members received telephone calls from Mr Allen.

Mr Allen informed them that the Minister wanted to meet them on 21 February 2012.

Mr Allen informed them that they were not obliged to attend however, should they agree to attend, they were not to inform their colleagues beforehand. Mr Allen informed those members of staff that the Minister asked him to choose three staff members and he had selected them.

Given the refusal of the Minister to respond to the numerous requests to meet, the staff members felt coerced into attending. They were concerned that if they refused

to meet, it would be interpreted by the Minister and Government as an opportunity to avoid further criticism.

The three staff members clearly stated to the Minister that they were attending as individuals not staff representatives.

The staff members reported that the Minister listened to their arguments but insisted that the decision had been made and the Government was committed to the decision. The Minister then asked the staff members to convey this commitment to their colleagues to ensure that relocation was a success.

Further, the Minister stated to the three staff members, that she would not meet with the PSA or their representative in this matter, the Assistant General Secretary, Shane O'Brien.

After the report back to staff it was resolved to organise and conduct a rally outside NSW Parliament House demanding a proper meeting between the Minister and staff and PSA representatives.

The rally took place on 23 February 2012. There has not been a meeting with the Minister.

c) The costs and benefits of the decision to close the Centre and relocate its functions to other locations

As evidenced above, the Department stated there was no business case supporting the proposal.

The original announcement was to decentralise the functions at Cronulla Fisheries to specific locations – Coffs Harbour, Port Stephens and Nowra.

During the ensuing months the list of locations expanded to Orange, Parramatta, Mosman, Newington, Sans Souci and Wollongong amongst others.

The Department stated that they needed some positions to remain within the Metropolitan area for operational reasons; these included research and corporate service positions.

The Department informed the PSA that there was flexibility in the exact locations within Metropolitan Sydney and that individuals were welcome to suggest locations.

However, the only Metropolitan Sydney location that would not be considered was Cronulla.

f) The loss of scientific expertise held by the staff who cannot relocate from Cronulla and the implications for sustainable fisheries management.

Scientific staff at Cronulla Fisheries have, combined, over 500 years experience in fisheries research and in excess of 50 science degrees.

At the time of the announcement, the staff compiled a submission to the Minister that included a survey of the willingness of staff to relocate. Of the 82 staff surveyed:

- 3 were willing to move;

- 66 would not move;
- 9 did not want to move but would consider it if necessary; and
- 4 said maybe depending on the circumstances.

The Minister did not address the specific issue of expertise retention, except for a reference to the Transferred Officers Award which applies to all public servants.

h) The impact on staff and families of the closure and the relocation

The Briefing Note included a significant analysis of the staff profile and the likely effects of the decision for those staff. Some of the observations were:

- There were 70 substantive permanent officers at Cronulla;
- There were 56 temporary staff, many of whom had been employed for long periods;
- There were a significant number of casual staff who had no rights under relevant industrial instruments to either ongoing employment or compensation should they lose their jobs;
- Less than 12% of staff were likely to want to seriously consider retirement as a result of the decision;
- Many of those 12% held key positions in the organisation including two Principal Research Scientists and three senior managers;
- The Departments' understanding that approximately 60% of the staff live in the Sutherland Shire and a further 20% in an area broadly defined within the south east suburbs of Sydney;
- That many staff had strong ties to the area and would significantly resist any plans to relocate elsewhere;
- The Managing Excess Employees Policy would be utilised to address staff issues with the relocation;
- The Policy would entitle permanent staff to be considered for relocation, redeployment to other roles in the Department or the Public Service generally, or a voluntary/forced redundancy;
- Temporary employees were entitled to be relocated or given a severance payment based on their years of service. They were not ordinarily entitled to redeployment or the full benefits of a voluntary redundancy;
- The group of staff affected were generally highly specialised and therefore the alternative job opportunities would be limited elsewhere;
- Forced retrenchments were a possibility.

When considering the impact on staff, the Managing Excess Employees Policy and the changes introduced to the Policy by the Government prior to the announcement must be considered.

Where previously the Policy emphasised redeployment within the Public Service as the primary method of "managing" an excess employee, the emphasis is now on the removal of the excess employee from the public service.

In the event that an employee is declared excess the obligation is now on the individual to accept an offer of voluntary redundancy within two weeks of the Government declaring them excess.

Should the individual fail to accept in that timeframe, the offer is withdrawn by the Government. The individual then has three months to win a permanent position in the Public Service. Should they not obtain permanent employment in that three month period they are forcibly retrenched.

The individual does not receive voluntary redundancy payments, instead receiving only the entitlements prescribed in the *Employment Protection Act*. For longer serving employees this amounts to approximately half the payment that would be received in the event of a voluntary redundancy being accepted.

Permanent Employees

For affected permanent employees, there are three options:

1. "Voluntarily" surrender their career in the public service;
2. Relocate themselves and their families away from their community and support networks to keep their job; or
3. Decline their "voluntary redundancy" and gamble half their severance payments on winning a permanent job elsewhere in the public service.

The final option is unlikely to be considered by many. The Department has admitted that the skills are highly specialised and not easily transferable to other areas of the Public Service. The age and geographical profile of staff would see many with very strong community ties. In addition the Government has announced 15,000 public service job cuts over the next five years.

The second option is historically favoured by few. Partners' careers are abandoned and alternative satisfactory employment is hard to obtain in regional areas. Children's schooling is disrupted. In the case of families with special needs, services are usually far less accessible. Again, the age and geographical profile of staff would see many with very strong community ties that would significantly resist plans to relocate elsewhere.

This has previously been recognised by the Department, most notably in the 2004 relocation of Mineral Resources from St Leonards to Maitland.

In previous cases the PSA has been able to negotiate more flexible opportunities for affected staff. In relation to the Cronulla Fisheries, the Government has refused to provide more than the minimum requirement under relevant industrial instruments.

These factors make the first option the only real option for most. It is a situation forced upon staff by a combination of the political decision and the workings of a policy that does not "manage" excess employees.

Temporary Employees

For affected temporary employees there are two options:

1. The equivalent of a forced retrenchment for those who do not relocate.
2. Relocation without any guarantee of ongoing employment.

The first option applies as a result of changes to the Managing Excess Employees Policy. In addition to the change of emphasis from redeployment to removal of the excess employee, the Government has also prohibited the payment of severance payments in excess of the provisions of the *NSW Employment Protection Regulation, 2001* to temporary employees.

Prior to these changes a temporary employee was paid severance payments for years of service as prescribed in the Voluntary Redundancy package for permanent

employees. Various bonus and incentive payments were the only exclusion. Now temporary employees are offered only the equivalent of a forced redundancy.

With regards to the second option, the Department will not commit to long term employment at the new location.

Most temporary employees are funded through either the commercial or recreational fishing trusts. These trusts are not considered by the Department to be consolidated revenue, thus prohibiting the conversion of these temporary employees to permanent public servants. These employees are given fixed term contracts that may or may not be renewed.

The PSA has continually argued for the permanent employment of temporary employees in Recreational and Commercial Fisheries Management. The trust funds are established by legislation and presided over by the Minister. The funds are collected by legislated levies on commercial and recreational fishers specifically to manage the State's commercial and recreational fisheries.

Unlike consolidated revenue funding, it is not allocated by Treasury. The fluctuation in these funds only occurs if there is a significant decrease in either commercial or recreational fishers' contributions to them. If this was to occur, the Minister would be entitled to consider which fisheries management functions should continue and if necessary, restructure those areas.

With consolidated revenue funding, Treasury determines each year the number of FTE positions that will be funded in each programme. The Minister and Department have less control over their preferred source of funds for permanent employment than they do over trust funds.

The *Public Service Employment and Management Act* does not allow for contracts of employment to be offered to temporary employees for more than three years. For these temporary employees they could relocate only to discover that at the expiry of their current contract, they are unemployed in an area with limited alternative employment opportunities. In such circumstances, the Managing Excess Employees Policy would also limit the severance payment to assist during their search for alternative employment.

The PSA submits that it is clear that the basis of the decision to close Cronulla Fisheries, was one of politics with little financial or economic analysis.

There was no consultation with staff prior to the decision being announced. The merits of the decision were not considered. Post decision, staff have had a limited role in Departmental working parties.

The PSA have been limited to discussions with Human Resources staff on matters of entitlement for affected staff only.

Further, the PSA have been advised that issues regarding the actual decision must be referred to the Minister or the Director General. This is a circuitous argument as the Minister refuses to meet with the PSA and its staff representatives and the Director General refers the PSA to Human Resources staff.

The PSA have been informed that there is no business case supporting the decision. Since the announcement, the Department have actively tried to avoid Treasury scrutiny of the decision and its' costs.

The loss of expertise is significant given the Government's insistence on providing the minimum assistance required to affected staff coupled with the highly specialist skills of the employees affected.

The Government has considered the impact on staff only in the context of complying with their minimum obligations. They have willingly sacrificed employees' career, or alternatively, that of their partner. The upheaval of their immediate family members serves only to sever community and support networks for this group of New South Wales public servants.