

**Submission
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**INQUIRY INTO COMMERCIAL FISHING IN NEW SOUTH
WALES**

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Inquiry Into Commercial Fishing in NSW
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Hon Robert Brown MLC - Chair
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Submission from Graeme Byrnes

1 a) Industry history including reforms since 1994.

1994 was a year that held great promise and hope for the NSW Fishing Industry. A new Act, a new approach, a new direction. After years of consultation with industry and supported by independent expert advice, property rights management including the allocation of proportional shares was about to be adopted across all NSW commercial fisheries. This was visionary, unique in Australia and a recognition of the failings of the old paternalistic, highly regulated command and control system that was the 1935 Act and regulations.

Importantly this change to a market based management system was supported by the industry. It was broadly recognised that the industry needed greater security through tradable property rights and in particular, it needed the greater economic security and resource security that would come through fishermen holding a tradable share of the resource. Their future's would be guaranteed as would seafood supplies.

However, upon a change of government in 1995 this was not to be. Incoming Minister Bob Martin permitted only Eastern Rock Lobster (ERL) and Abalone to progress to the new share management system. This was an appalling decision. It could rightly be described as 'the original sin' in leading to the problems the industry has struggled with for decades.

At the time, this upheaval created management chaos and great uncertainty within industry. Time and again Minister Martin would issue 'investment warnings' discouraging investment in any fishing businesses. The industry was plunged into 'restricted fisheries' and an entry criteria process. There were no management plan or management advisory committee provisions.

Worst of all, Minister Martin made legislative attempts (Commercial Managed Fisheries amendment) and regulatory attempts (Third Party Appeal regulation) to undermine the fishing industry security the clear aim being to give himself the power to 'sunset' commercial fisheries at a whim. However, through industry representations and thanks to the NSW Legislative Council and two parliamentary inquiries Minister Martin failed in these attempts.

By no stretch of the imagination could it be claimed that any 'reform' took place during these 4 years (excepting ERL and Abalone). It is no coincidence with ERL and Abalone adopting the new management system both these fisheries and especially ERL have evolved into model fisheries – highly profitable, resource secure, stable fisheries.

Even today, all other NSW commercial fisheries that remained under the old system (shares not linked to catch or effort) are in a worse position than they were in 1995 – many are struggling economically, unable to cope with market challenges, aging infrastructure, resource sustainability issues, high levels of insecurity, eroding social licence.

At the beginning of 1999 it was thought the lot of the NSW fishing industry could only improve. How wrong we were. 1999-2003 was a disaster for the NSW fishing industry. The whole episode is too awful and lengthy to revisit here. In summary however, this ministerial term was notable for a deceptive public campaign against commercial fishermen and indeed seafood consumers too. Hundreds of fishermen and their families lost their jobs and had their way of life destroyed. To date, seafood consumers have lost more than 15 million kilograms of fresh local seafood that no longer enters the system.

Significantly during this period fishing industry security was seriously eroded with the share management provisions of the Act being split in two – Category 1 share management (for Abalone and Lobster) as originally intended giving ownership and full property rights and, Category 2 share management (for all other commercial fisheries) where the property rights provisions were removed. The then DG described the difference in the two systems as one where the shareholder ‘owned the house’ and the other where the shareholder ‘rented the house’.

Once again, this was not a period of fisheries reform. It was a period of assault on the fishing industry and seafood consumers with perceived political advantage as motivation. It was a period that saw the post 1995 policy direction partially fulfilled but this time rather than absolving the State of the financial liability of paying for the closure of commercial fisheries through changing legislation, another group was made to pay – recreational fishers.

To some degree, the period 2003 to 2007 saw a corner turned with better industry relations with government and some movement towards a structured approach to considering the problems facing the fishing industry. Under new Minister Ian Macdonald several changes took place not the least of which was a change in his fisheries DG. In brief, recommendations came from the minister’s peak advisory council recommending industry adjustment, two independent reports were commissioned by the new DG and provided to the government recommending a program of industry adjustment. Ultimately, a small fishing business buyout program resulted in some 18 fishing businesses being bought back by the government. However, by no means was this ‘reform’ either. Clearly, money was available for the necessary fishing industry reforms to take place but it was spent elsewhere.

While minister Macdonald resurrected share management reinstating all commercial fisheries into Category 1 share managed fisheries, the ultimate share allocation was of a form that provided little if any meaning in terms of a tradable proportional right. For most share classes there was little if any relationship between shareholding and activity.

While the minister recognised the problem and instructed his department to 'fix it' nothing happened. With the government unravelling, the prospect of something positive happening for the fishing industry in the lead up to the 2011 election looked slim.

Industry leaders however, with the support of the minister, took the decision to embark on an industry consultation process throughout 2009-2010 to discuss the way forward regarding share management and linkage. Some 30 meetings were held along the entire length of the coast with strong numbers of commercial fishers attending providing a host of ideas and options.

Since this time and the election of the current government, a great many more meetings have been held, more independent reports and now a sound policy direction is set. Reform is on the way. Upon inquiry, DPI advises that approximately 2/3 of the shares held in fishing businesses are at a shareholding level at or above the maximum catch recorded over the last 5 years. Of the remaining 1/3 approximately 50% need to acquire a relatively small number of shares to also reach this level. Based on this information the vast majority of the industry has already self adjusted – without subsidy. With the Adjustment Subsidy Program (ASP) due in early 2017 and with some \$16 million of assistance aimed at helping the remaining portion of the 1/3 get to where they need to be, the prospects for a successful adjustment are positive.

However, there remain uncertainties. Not the least of which is the potential for the availability of shares for the remaining 1/3 as part of the ASP as well as how much will it cost fishers. There is a high likelihood some fishers who have already adjusted their shareholdings still hold shares they either do not use or do not fully utilise. A similar situation applies to those considering exiting the industry and releasing their shares onto the market. In order to encourage those shareholders to release those shares to those who will need them more post mid 2017, it may be worthwhile the government considering a funding 'top-up' to the ASP to provide greater incentive for those shares to move to where they are needed most.

In conclusion, it has to be said that this process has been a complex and difficult one. It has taken far too long to get to this point. With a policy announcement in 2011, an independent report and Cabinet decision in 2012, ongoing consultations and a recent final decision and announcement on linkage, very clearly change was/is coming. Some in the fishing industry welcomed this, some accepted this with both these groups recognising the direction and making financial decisions to secure their fishing future. Of those remaining, some are waiting to fully exit the industry via the ASP. Some however are/were not in a financial position to buy the shares they need to carry on. These folks will be assisted by the generous support arrangements put in place.

Others still however, refuse to accept the policy and direction. Many for reasons not dissimilar to the example of ERL when that fishery moved to link its shareholdings to quota. A small number of this current group have behaved appallingly in their advocacy.

Largely through social media, anyone who dared to support the reform program was viciously attacked – highly defamatory remarks, threats of physical violence, threats to property and person both aimed at the individuals concerned and their family members. If a record of these comments has been kept, the persons concerned should be referred to the relevant authorities with a view to prosecution. In a larger sense, such conduct threatens open public discourse, the fabric of our civil society and the functionality of our democracy.

b) Value of the commercial fishing industry

'Value' has many interpretations. It is all too easy to put a dollar value on something. For many years the NSW fishing industry was noted as having a 'farm gate' value of approximately \$80 million.

The common basis for this calculation has been to take recorded catch quantities and applying floor prices at Sydney Fish Market (SFM). This takes no account of increased value through local sales and export markets in particular. Nor does it take account of the multiplier effect. These factors must be recognised as part of the increasing dollar value of NSW commercial fisheries.

Then there is the non-monetary value of the industry to the community and importantly as 'part' of the community. Again, this is receiving greater recognition now through a recent UTS study. Its results are illuminating through such things as putting a value on the stewardship of the industry in environmental monitoring and search and rescue incidents for example.

c) Scientific research underpinning fisheries management, and

d) DPI Fisheries Resource Assessment Unit

There are (at least) three fundamentals underpinning fisheries management,

- Sound research backed up by timely and accurate catch data,
- A consistent and appropriate fisheries policy direction,
- Efficient and effective compliance and monitoring.

The weaker any one of these becomes the stronger the others have to become to take up the slack. What has been experienced for most commercial fisheries in NSW for a long time has been a heavy reliance on compliance and research as fisheries policy direction has been weak. Taking the example of ERL, as the policy direction has been strong (quotas), sound research and strong compliance have 'dovetailed' into good policy direction bringing about a model fishery. The resource is stable with a growing bio-mass, fishery economics is strong and improving with non-compliance amongst commercial operators being at low levels.

If there is a weakness in the scientific/research system it would lay in the timeliness and accuracy of the data supplied by resource extractors – commercial and recreational fishers. For species of concern, recreational fishers should provide better and more timely information on catch to NSW DPI. Given the use of new technology such as applications on smart phones, this could easily be done and even done in real time.

For the commercial sector, the same applies particularly in applying a 'pre and post' reporting regime across all activities post mid 2017. There also needs to be a change in approach from the old punitive system to a new incentive based model regarding catch reporting.

There needs to be a greater emphasis on 'working partnerships'. Currently, if a commercial fisher is late in lodging his catch returns he will get a letter threatening prosecution usually from his local fisheries inspector. This does not engender good relations and is certainly not an 'outcome based' approach. There are at least two different approaches to this. One, send the fishermen a reminder SMS for any arrears in their catch returns. Punitive measures can follow. Secondly, in terms of the timeliness of catch reporting and enabling appropriate management responses, an approach that was used in NZ was to apply fee discounts to those lodging catch returns on time and even further discounts for lodgement electronically. This would be a win-win change.

e) Business adjustment program.

i) Productivity Commission

The recent release of the Productivity Commission report goes to emphasise what has been known in NSW for more than 30 years; that the adoption of quota based management is the most efficient, effective, productive, profitable and resource sustaining method of fisheries management. The creation of the NSW 1994 Act was the enabling legislation that would allow this to happen. Getting to the point of implementing what is necessary in NSW has always been problematic.

ii) The restructure to date,
and

iii) The impact on industry and regional communities to date, including economic, social and cultural impacts.

As mentioned above, the impact of the social media campaign against the reform program has done more harm than anything real or imagined attributable to the reform program itself. The failing, giving this negative campaign impetus, was the absence in the field of social media of an advocate to counter all the rumours, deliberate misrepresentations and indeed lies. There needed to be a 'myth buster' on social media that at every step countered such comments.

At the same time, I am of the view that a small number of those vociferously opposing the reform used and indeed promoted this situation to their advantage. On the one hand these people were at the forefront of the campaign of opposition, claiming disadvantage, claiming unfair treatment, creating fear in the share trading market and then at the same time taking the totally duplicitous position of entering the market and aggressively buying up shares and fishing businesses. A cursory viewing of the public share register, particularly regarding those opposed to the program, will show multiple shareholdings well above the level needed to fish at existing levels beyond mid 2017 and/or multiple fishing businesses held by these people.

The negative impact upon the industry of this small group cannot be underestimated.

At the same time, and in private conversations with other industry members, commercial fishers were expressing their support for the policy direction. There is no greater indicator of the support for the program now than the number of those fishers who have secured sufficient shares to meet their needs post mid 2017.

Indeed the SARC report of late 2015 estimated share trades (post policy announcement) to the value of more than \$17 million to that time. Since then DPI has advised trading has continued at a high rate. This is all without any government subsidy. The industry is voting for the reform with its wallets.

It must be noted that for more than 5 years the policy direction of the government has been clear – shares will be linked. Fishermen serious about their future have been investing in shares in order to continue fishing into the future. For all this time with multiple delays in implementation, these fishermen have been carrying this financial burden with NO return upon investment. These fishermen have absorbed effort, absorbed capacity giving advantage to those fishing through this period again with NO return for their investment. These people should not be forgotten.

Equally however, nor should the plight of those who do not have the financial resources to purchase shares without subsidy be forgotten. So many went into this program with good will and the best of intentions. Everyone knew this wouldn't be easy, there would be much disagreement. But the whole situation was made immeasurably worse by the scurrilous campaign conducted over social media.

It must be remembered too, before this reform program even began fishermen were doing it tough. There were those who went broke or who had to take on another job to survive financially. Co-ops collapsed. There were those who sold out for next to nothing. There were those who pushed the limits of safety in order to out compete their fellow fishers. There were suicides. This is where the broader industry said 'things must change'.

In terms of cultural impact, there is no doubt aboriginal fishers have been impacted. But there is an added dimension. Earlier this year the Ministerial Fisheries Advisory Council (MFAC) met with a group of Aboriginal fishers from the south coast. Their message was clear, they and their families are still suffering from, and remain aggrieved by, the loss of their traditional fishing grounds to recreational fishing havens. These were THEIR waterways, they lived by them, they lived from them, they sustained their families. Much of that has been lost and it is a situation that must be rectified.

iv) Economic modelling.

Critical to the science of fisheries management, particularly commercial fisheries, is a strong knowledge and understanding of fishery economics.

It is a lamentable fact that for the entire history of fisheries management in NSW only once (and only for a short period) was a specialist fisheries economist employed. However, as part of this reform program the independent SARC has had a strong focus on fisheries economics. Indeed, this subject has played a strong role in all previous independent reviews considering reform of the commercial sector – a sector strongly driven by economic factors. Given the nature of SARC as a ‘review’ committee and with a dedicated fisheries economist specialist member of SARC and with the chair himself having strong qualifications in economics, government, industry and the community can have every confidence regarding any fishery economics based recommendations of SARC.

v) The approach of other jurisdictions

Across the Commonwealth and in other advanced fishery management jurisdictions (such as NZ) the clear direction is moving from input controls (governing nets, traps, boats, etc.) towards output controls (quota). From some 30 years ago when so many Commonwealth harvested species were classed as ‘overfished’ to today where not one species now falls into this category. It is a quota management success story.

More recently a similar example exists in WA and their experience with their Western Rock Lobster (WRL) fishery. A vast fishery, one of the biggest most valuable fisheries in the country, a fishery with all the appearances of doing well for so long until significant recruitment issues arose. Governed by input controls (tradable trap numbers) the decision was taken to move to output controls – quota. Only a few years after this transition this fishery is now more profitable than ever. Fewer players, stable resource, secure markets, highly valuable fishing rights. Another quota management success story.

From the NSW perspective and where this industry is situated in the time scale of fisheries management evolution, we are in the Stone Age. Even fishermen from other States wryly tell us this. With good will, understanding and political forbearance, we can catch up to the 21st century and put our industry, the fishermen and their families in the best position to embrace the challenges and opportunities of the decades ahead.

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