

Select Committee on Recreational Fishing

Recreational fishing in New South Wales

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Terms of reference

1. That a select committee be appointed to inquire into and report on the benefits and opportunities that improved recreational fisheries may represent for fishing licence holders in New South Wales, and in particular:
 - (a) the current suite of existing regulatory, policy, and decision-making processes in relation to the management of recreational fisheries in New South Wales, including the process for the creation of Marine Protected Areas and Marine Parks and the efficacy of existing Marine Protected Areas and Marine Parks,
 - (b) the effectiveness and efficiency of the current representational system of trusts and advisory committees that advise government departments and statutory authorities,
 - (c) the value of recreational fisheries to the economy in New South Wales,
 - (d) the gaps in existing recreational fishery programs, including the number and location of Recreational Fishing Havens, and
 - (e) ecologically sustainable development issues related to improving recreational fisheries.
2. That the committee report by 25 November 2010.

These terms of reference were referred to the Committee by Legislative Council Minutes No. 128, 24 November 2009, 1544-1545.

Committee membership

Hon Robert Brown MLC	Shooters and Fishers Party	<i>Chair</i>
Hon Tony Catanzariti MLC	Australian Labor Party	<i>Deputy Chair</i>
Mr Ian Cohen MLC	The Greens	
Hon Rick Colless MLC	The Nationals	
Hon Charlie Lynn MLC	Liberal Party	
Hon Christine Robertson MLC	Australian Labor Party	
Hon Lynda Voltz MLC*	Australian Labor Party	

* The Hon Lynda Voltz MLC replaced the Hon Mick Veitch MLC as member of the Select Committee on Recreational Fishing 9 March 2010, as per the resolution of the House (Legislative Council Minutes No. 137, Item 18).

Committee Secretariat

Ms Rachel Simpson, Director

Mr John Young, Principal Council Officer

Ms Kate Mihaljek, Senior Council Officer

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Chair's foreword

The NSW Fishery, encompassing both the recreational and commercial sectors, is and has historically been both highly regulated and well-managed. The impact of our State's fishery on the sustainability of fish stocks and the health of the marine environment cannot be compared to that of less effectively regulated fisheries in other parts of the world.

It is estimated that there are approximately one million recreational fishers in New South Wales. As a group they are passionate about their continued ability and right to partake in their chosen recreational and cultural activities. Recreational fishers are keenly concerned with the health and sustainability of fish stocks and the protection of marine biodiversity.

This Inquiry Report, *Recreational fishing in New South Wales*, contains 38 detailed recommendations, addressing the Terms of Reference of the Inquiry. The Committee urges the Government to implement all of these recommendations, some as a matter of urgency. In particular, there is an urgent need to increase funding, and therefore effort, for the research priorities noted in the report of the Independent Review of Marine Park Science in NSW.

I also urge the Government to give priority to a review of the method and structure of representation for recreational fishers, as this issue was most frequently raised by recreational fishers who attended the Public Hearings.

This Report contains two Dissenting Reports, and the Committee urges the Government to take note of these Dissenting Reports. Where Members of the Committee could not agree on the text of The Report, divisions were called, and the subject matter of the vote is included in the Minutes of meetings dated 22 November 2010, 29 November 2010 and 3 December 2010.

This Inquiry covered a wide-ranging and complex subject area, on which participants expressed a range of different, and often conflicting views. I wish to acknowledge the interest and approach of my fellow Committee Members, in their examination of the issues raised. My thanks also go to the following members of the Committee Secretariat who so ably supported the conduct of this Inquiry: Ms Rachel Simpson; Mr John Young; Ms Kate Mihaljek; Ms Lynn Race; Ms Kate Harris; Ms Rachel Callinan; Ms Shu-Fang Wei; Ms Christine Nguyen; and Mr Stewart Smith.

On behalf of the Committee, I extend my gratitude to the many people who participated in this Inquiry. In particular I acknowledge the effort taken by many individuals from all across the State who attended the Public Hearings, and provided the Committee with their personal experiences, views and concerns. Some of these participants travelled considerable distances to attend the Sydney and the Regional public hearings.

In particular, I wish to thank Emeritus Professor Robert Kearney, who, at the request of the Committee, attended the Public Hearings on more than one occasion. I also wish to particularly thank Mr. Martin Salter, the retired British Member of Parliament, who gave the Committee the benefit of his experience as the former UK parliamentary spokesperson for Angling responsible for establishing the UK Angling Trust and the UK Charter for Angling.

Hon Robert Brown MLC
Committee Chair

Executive summary

Introduction

This inquiry was established on the 24 November 2009 when the Legislative Council appointed a select committee to inquire into and report on the benefits and opportunities that improved recreational fisheries may represent for fishing licence holders in NSW.

The Committee called for submissions through advertisements in major Sydney and regional newspapers. The Committee also wrote to organisations and individuals with a likely interest in the Inquiry. The Inquiry generated wide interest and the Committee received 1036 submissions from a range of stakeholders. A number of organisations developed electronic pro-formas to assist like-minded individuals to make a submission – the Committee received 774 such submissions.

The Committee held ten public hearings, four of which were held in Parliament House, Sydney. The remaining six public hearings were held in the regional locations of Nowra, Port Stephens, Port Macquarie, Batemans Bay, Griffith and Grafton. More than one hundred individuals appeared and gave evidence before the Committee.

It is estimated that there are approximately one million recreational fishers in New South Wales. In the pursuit of their pastime, recreational fishers make a significant contribution to the State economy. The sale of recreational fishing licences raises approximately \$13 million dollars annually for the purposes of improving recreational fishing opportunities.

Recreational fishing can take many forms depending on the location, fishing gear and method employed and the type of fish being pursued. While most of the issues facing recreational fishers are common to all, there are also specific issues for certain types of fishers such as rock fishers and spearfishers.

The threats to marine biodiversity

There are a number of threats to the sustainability and security of marine biodiversity including fish stocks. These threats are climate change, resource use (including commercial and recreational fishing), land-based impacts, marine bio-security and marine pollution.

There is debate regarding the comparative level of risk each of these threats posed. With respect to recreational fishing, views ranged from it having no effect to it being the main threat according to the sector the inquiry participant came from. However, it was acknowledged by all participants that land-based impacts are a significant and continuing threat.

Good fish populations rely on quality fish habitats. A number of government agencies and departments are involved in activities relating to habitat restoration and addressing land-based impacts that threaten fish habitat and populations. However, there is no clear coordinated plan for these activities.

The Committee recommends that the Government prepare and publish a Plan that sets out the current and proposed actions across all government agencies and departments that will be taken to address the land-based threats to marine biodiversity, including fish stocks.

While there was debate on the significance of the threat posed by recreational fishing it was agreed that the actual threat, in terms of the volume of fish taken by the recreational sector, was not accurately known. Current wide-ranging estimates of the recreational fishing catch are based on out-of-date data.

Informed debate on the threat posed by the recreational fishing catch cannot occur until there is an accurate assessment of that catch. The Committee recommends that the NSW Government design a statistically robust survey that will provide as accurate as possible assessment of the recreational catch and effort throughout NSW. This survey should be repeated every five years.

The Committee also recommends that the NSW Government consider funding and commissioning an Environmental Impact Statement to review and evaluate the recreational fishing catch and effort in NSW waters.

Marine Parks

Marine parks were the primary issue for the overwhelming majority of inquiry participants. Many submissions to the Inquiry simply called for either an increase in marine parks, or, conversely, for no more to be established

Underlying these two calls was the dichotomy of views on whether there was a valid scientific basis for the marine parks in NSW. The debate on "the science behind marine parks" has been current in the public domain for some years.

The NSW Government commissioned an independent panel to undertake a review of marine park science in NSW. The report of that review was publicly released during the course of the inquiry. The report made 24 recommendations including that the strategic framework should now prioritise research to monitoring, evaluating and modifying marine park boundaries and zoning arrangements.

The Committee recommends that the NSW Government provide sufficient funding to ensure implementation of the recommendations of the report. Given the identified gaps in current research and issues that required investigation, the Committee recommends that the NSW Government not create any new marine parks until the next five-year marine park research plan is completed.

The Committee also makes a number of recommendations to improve the management and useability of marine parks. It was argued that certain fishing techniques targeting transient, non-resident fish species could be allowed within marine park sanctuary zones without compromising biodiversity and habitat protection. The interaction and role of migratory fish in the ecological processes within sanctuary zones is not well understood and is the subject of on-going research.

The Committee recommends that at least one fishable zone within each marine park be selected to trial restricted fishing access, with each site to be monitored to determine the impact of this restricted fishing access on biodiversity, habitat and ecological processes, compared to a fully restricted sanctuary zone, in consultation with local fishers.

The Committee also recommends that a 100 metre from shore habitat protection zone be implemented within suitable current sandy ocean beach sanctuary zones until a review of the utility of such sanctuary zones is completed.

Fishing within marine parks is strictly regulated and non-compliance with these regulations can result in large fines. Fishers need to be able to easily determine zone boundaries. The Committee recommends that the Department of Environment, Climate Change and Water finalise negotiations with software providers with a view to developing a means by which marine park zone boundaries can be displayed on GPS systems used by recreational fishers.

The Committee also recommends that the Marine Park Authority publish statistics and explanatory information regarding the number and type of cautions and fines issued within marine parks in order to alert users of where they particularly need to be informed of the relevant regulations and restrictions.

Representation of the recreational fishing sector

The current representational system of trusts and advisory committees does not appear to be meeting the needs of recreational fishing organisations. Their primary criticism of the current system is that they are only represented by way of ministerially-appointed to an advisory body. Recreational fishing organisations argued for a single independent representative body that can advocate and act on its behalf.

The Committee recommends that Industry & Investment NSW (I & I) in consultation with recreational fishing organisations, indigenous fishing representatives and other relevant bodies review the current structure of the Advisory Council on Recreational Fishing (ACoRF). The Committee also recommends that ACoRF develop a communication strategy so that current information can be made available in a timely manner to the wider fishing community.

Fishery programs

The NSW Government implements a range of fishery programs designed to improve recreational fishing opportunities, which are primarily funded through monies raised by the sale of recreational fishing licences.

Recreational fishing havens (RFHs) have been enthusiastically embraced by the recreational fishing sector, and it is keen to see more havens established. However, the prospect of further havens is causing concern among the commercial fishing sector.

The Committee believes it is prudent to delay consideration of establishing any further RFHs until research on the broader ecosystem and recreational fish stocks within each RFH is completed. The Committee also recommends that such research be updated at least every five years.

There is concern that when the amenity of a RFH is compromised by government action, such as infrastructure development within a haven's boundaries, there is currently no action required to ensure the level of fishing opportunity is maintained. The Botany Bay RFH has been subject to a number of major construction projects.

The Committee recommends the NSW Government commission research to determine the impact of recent government developments within the Botany Bay RFH to determine what mitigating actions and remediation programs can be established in proximity to the RFH in order to maintain or improve recreational fishing opportunities.

For many recreational fishers their greatest criticism of marine parks was the loss of access to reef habitat. During the course of the Inquiry it emerged there was potential for consideration of the deployment of artificial reefs within marine park habitat protection zones .

The Committee believes the deployment of artificial reefs would offer some compensation to the loss of access suffered by recreational fishers. The Committee recommends that the Marine Park Authority identify at least one location within each marine park where an artificial reef could be deployed without negatively affecting nearby sanctuary zones.

Regulation and management of recreational fishing

Recreational fishers have to be aware of the regulations and requirements that manage their pastime. These regulations are developed through a consultative process, with the next general review of fishing

rules to commence in 2011. There is a clear need to increase the involvement of the recreational fishing sector in these reviews.

At the moment there is no guarantee that a recreational fisher will be in possession of the current rules governing their activity. The Committee recommends that Industry and Investment produce a summary brochure of key recreational fishing rules to be distributed with renewal notices for recreational fishing licences.

The Committee also recommends that I & I develop an email database of recreational fishing licence holders, including persons exempted from holding a licence, with a view to using this as a means of direct communication with the recreational fishing sector.

The development of such a database would assist in ensuring greater awareness of current rule changes and could assist in ensuring greater participation in fishing rule reviews.

The submissions from many recreational fishers included information on their observed status of fish stocks in their local area and made suggestions or recommendations for changes to fishing rules accordingly. Many of these recommendations were for greater rather than less restrictions in terms of bag and size limits.

There is no doubt that the recreational fishing sector is a valuable information resource. I & I has facilitated some partnerships to involve recreational fishers in research on the status of fish stocks. However, the Committee believes that there could be further potential that is yet untapped. The Committee recommends that I & I investigate increasing these partnerships.

There was a strong call from among all inquiry stakeholders for an increase in fishery compliance officers. The Committee was led to understand that the current contingent of compliance officers in NSW was on par with that of other States. However, the Committee believes that given our State's respective geographic size and fishing population that our contingent may need to be more than average. The Committee recommends that Industry & Investment NSW undertake a review of the staffing of compliance officer positions.

Access is an increasingly important issue for many recreational fishers. Historically recreational fishers have enjoyed widespread access to creeks, dams, estuaries and ocean waters via numerous access points across the State. However, over time access points have been lost through foreshore development, road closures, and various environmental planning processes.

The Committee contends that more needs to be done to improve public access to rivers in NSW, and recommends that I & I fill the two vacant fishing access officer positions.

Currently recreational fishers are allowed access to water impoundments (dams) in some parts of the State but not others. Impoundments near major population centres are less likely to be accessible to fishers. Prospect Reservoir presents as an opportunity for the metropolitan public to become familiar with the fishing within water supply storages. The Committee recommends that the Minister for Water consider the impact of recreational fishing on water storage impoundments with a view to determining the types of fishing activities that could be permitted, in particular at the Prospect Reservoir on a trial basis.

Indigenous fishing issues

The *Fisheries Management (Amendment) Act*, which was passed in December 2009 contained a number of important provisions that formally recognised Aboriginal peoples' customary association with the fisheries resource. The Act provided for the establishment of the Aboriginal Fisheries Advisory Council (AFAC). Aboriginal community representatives told the Committee that they hoped the establishment

of the AFAC will lead to greater consultation with Aboriginal fishers, as consultation had not been strong enough in the past to resolve Aboriginal fishing issues.

Inquiry participants voiced some concerns regarding the provisions for Aboriginal cultural fishing that will ultimately be established under the regulations of the Act. It is difficult for the Committee to make any specific recommendations concerning the regulations as the AFAC has not yet met to consider them.

The Committee also heard that there are a number of issues with the general regulation of commercial fishing practices that have a marked impact on Aboriginal people, particularly the use of traditional practices when beach hauling and the issuing of commercial licences.

It was disappointing to hear that traditional beach hauling practices were being undermined by the stringent application of commercial licence regulations. Additionally the Committee was concerned that the practice of passing down licences through generations can no longer occur. The Committee recommends that I & I investigate two things: firstly, a block licencing system for Aboriginal commercial fishers that will allow their family and community members to assist in beach hauling, and, secondly, the potential for commercial fishing licences to be inherited by family members along traditional lines.

Spearfishing

Spearfishing is practiced by a relatively small but passionate sector of the recreational fishing community. Spearfishers maintain that their practice is a sustainable and environmentally friendly form of recreational fishing.

Spearfishers called for greater representation on trusts and advisory boards, as the unique characteristics of their sport meant that anglers and other types of fishers could not adequately represent their interests and concerns.

Spearfishers believe that they do not adequately benefit from the fishery programs established by the Government such as RFHs, artificial reefs and fish aggregating devices (FADs). The Committee is concerned that spearfishers do not have equitable access to these programs. Monies raised through the recreational fishing licence fees should be used towards programs that assist all fishers, including spearfishers.

The Committee believes the Government should ensure equitable access for spearfishers to programs such as FADs and artificial reefs. The Committee recommends that I & I examine the potential for use of these programs on either a temporal or spatial basis.

Rock fishing

Two main issues regarding rock fishing were raised during the Inquiry – safety and access.

Sadly, during the course of the Inquiry a number of NSW citizens lost their lives while rock fishing. Following the deaths of six rock fishers in May 2010 there were renewed calls for governments to implement stricter rock fishing regulations including the mandatory wearing of lifejackets. There was a divergence of views on whether this increased regulation or increased education of rock fishers was the most appropriate response.

The Australian National Sportsfishing Association (ANSA) has been involved in rock fishing safety and education initiatives such as the Angel Ring Project and the "Don't put your life on the line" program

of educational and instructional materials which particularly target people from non-English speaking backgrounds.

The Committee acknowledges the debate concerning the introduction of mandatory lifejackets. While certain inquiry participants argued in favour of maintaining the status quo, the death of a high number of rock fishers in 2010 cannot be ignored. The Committee recommends that the Water Safety Advisory Council investigate the most appropriate type of lifejacket for rock fishers and publicise this information and further investigate the possibility of introducing mandatory use of lifejackets for rock fishers particularly at high-risk fishing sites.

Rock fishers were concerned about their loss of access within marine parks. Given the limited amount of safe rock fishing locations this has led to overcrowding of safe locations and to some rock fishers making use of unsafe locations.

The Committee notes that recent proposed changes within the Jervis Bay marine park seek to increase the amount of spots available to rock fishers. The Committee hopes that future reviews of marine park zoning plans also seek to increase the number of safe rock fishing locations.

Commercial fishing

The commercial fishing industry makes a significant contribution to the overall state economy and is particularly important for some regional centres. The NSW commercial fishing industry is highly regulated to ensure its sustainability, and its impact should not be compared to those of less effectively regulated fisheries in other parts of the world.

The recreational fishing sector was generally concerned at their perceived loss of access to fishing areas as a result of the establishment of marine parks. However, the commercial sector lost an even greater amount of access during this process. In addition commercial fishing access has been restricted by the establishment of recreational fishing havens, which was compounded by the buy-out of commercial fishing interests process which has seen greater competition for limited resources within the industry.

The Committee notes the range of views expressed about the proposal to phase out prawn trawling in the Solitary Islands Marine Park and that the Minister for the Environment, Climate Change and Water and the Minister for Primary Industries will be considering the submissions and comments from the local marine park advisory committee prior to making the final zoning plan. The Committee recommends that I & I in consultation with recreational fishers and other relevant bodies, investigate and identify locations and circumstances in which limited commercial access can be maintained.

There is a clear need to further reduce the number of commercial fishing operators to ensure the viability of the industry. The amount of \$1.5 million that has been set aside to assist commercial fishers leave the industry appears inadequate when compared to the amount expended on previous buy-outs.

The commercial fishing industry is highly regulated by world standards and increasingly working to reduce its impact in terms of by-catch. Notwithstanding continual improvement in the use of by-catch reduction devices, there remains a perception among the public and the recreational fishing sector that the by-catch of the commercial fishing industry has a dramatic impact on fish stocks.

The lack of accurate data on its overall fish catch was described as the Achilles heel of the recreational fishing sector. It would be fair to say that the lack of accurate data on actual by-catch, or if this data is known the lack of its presentation, is the commercial fishing industry's weak point in terms of public perception. The Committee recommends that Industry & Investment NSW publish information on the discarded commercial by-catch in NSW.

The commercial and the recreational fishing sectors compete for the same resource and have an integral interest in the continuing sustainability of that resource. The majority of issues of concern for the two sectors are common. Given these common interests there is an obvious need for cooperation and dialogue between the two sectors.

There have been numerous cases where local joint committees have been established to engender cooperation and improve ties between the two sectors. These local initiatives invariably lapsed due to lack of formal support.

The Committee recommends that the Government establish, and provide on-going support for, a permanent forum for the commercial and recreational fishing sectors to meet on a regular basis to discuss common issues.

Summary of recommendations

- Recommendation 1** **39**
That Industry and Investment NSW ensure that as soon as practicable compliance activity is undertaken to enforce compliance with the rules governing the use of meshing nets, particularly in the Clarence River.
- Recommendation 2** **46**
That the NSW Government, as a high priority, provide appropriate funding to ensure the design and implementation of a statistically robust survey that will provide as accurate as possible assessment of recreational fishing catch and effort throughout NSW, and that this survey is undertaken once every five years.

That the NSW Government consider funding and commissioning an Environmental Impact Statement (EIS) to review and evaluate the recreational fishing catch and effort in NSW waters.
- Recommendation 3** **61**
That the Recreational Fishing Trust Funds provide a greater allocation of available funds to rehabilitation and restoration of aquatic habitat and establish formal Memoranda of Understanding and funding arrangements with relevant Catchment Management Authorities to undertake inland river, estuary and coastal pollution reduction programs.
- Recommendation 4** **63**
That the NSW Government prepare and publish a Plan which sets out the current and proposed actions across government that will be taken to address the threats to marine biodiversity, including fish stocks.
- Recommendation 5** **88**
That the Marine Park Authority continue to publish information identifying the location of the various categories of reef habitat within each park for the use of the marine park users and to continue publish information on the seabed mapping program as it progresses.
- Recommendation 6** **102**
That the Marine Park Authority place statistics and explanatory information regarding the number and type of cautions and penalty notices issued on either its public website or on each individual marine park's public website.
- Recommendation 7** **105**
That the Department of Environment, Climate Change and Water finalise negotiations with software providers with a view to developing a means by which marine park zone boundaries can be displayed on GPS systems used by recreational fishers.
- Recommendation 8** **107**
That agendas and minutes of marine park advisory committees be published on the Marine Park Authority's website or the website of individual marine parks.

- Recommendation 9** **109**
 Marine Park Authority, with the assistance of the NSW Environmental Protection Agency, identify land based licensed and unlicensed point source and non-point source discharges and pollution into marine protected areas and prioritise them in terms of need for remedial action, and continue to provide funding to assist local councils in remediating these discharges.
- Recommendation 10** **113**
 That as the primary objective of NSW marine parks is conserve the biological diversity and maintain the ecological processes responsibility for the operational management of marine parks should continue to be appropriately led by the Department of Environment, Climate Change and Water. Responsibility for the declaration of and management of marine parks should be vested jointly with the Minister for Environment, Climate Change and Water and the Minister for Primary Industries.
- Recommendation 11** **113**
 That the NSW Government maintain the concurrence role for the Minister for Primary Industries in the Marine Park Act and remove any concurrence requirements that do not directly relate to fisheries management issues or legislative mandates.
- Recommendation 12** **132**
 That a 100-metre from shore habitat protection zone be implemented within suitable current sandy ocean beach sanctuary zones until a review of the utility of such sanctuary zones is completed.
- Recommendation 13** **135**
 That at least one fishable zone within each marine park be selected to trial restricted fishing access, with each site to be monitored to determine the impact of this restricted access on biodiversity, habitat and ecological processes, compared to a fully restricted sanctuary zone, in consultation with recreational fishers.
- Recommendation 14** **138**
 That the NSW Government provides sufficient funding to ensure the effective and timely implementation of the twenty-four recommendations contained within the December 2009 report Marine Park Science in NSW – an Independent Review.
- Recommendation 15** **138**
 That the NSW Government not create any new marine park until the next five-year marine park research plan is completed.
- Recommendation 16** **143**
 That Industry & Investment NSW undertake a review, including any legislative constraints, of the structure, membership and operation of the Advisory Council on Recreational Fishing.
- Recommendation 17** **147**
 That the NSW Government investigate the sufficiency of expenditure on recreational fishing compliance officers and that both Industry and Investment NSW and the fishing trusts establish a shared funding arrangement for funding compliance with regulatory controls .

- Recommendation 18** **156**
That Industry & Investment NSW in consultation with recreational fishing organisation, Indigenous fishing representatives and other relevant bodies review the current structure of the Advisory Council on Recreational Fishing.
- That ACoRF develop a communication strategy so that current information can be made available in a timely manner to the wider fishing community.
- Recommendation 19** **170**
That Industry & Investment NSW immediately commence on-going research on the broader ecosystem and recreational fish stocks within each recreational fishing haven, with information updated at least every five years.
- Recommendation 20** **173**
That Industry & Investment NSW, in consultation with recreational and professional fishers, investigate and identify the locations and circumstances in which limited commercial access to recreational fishing havens could be considered.
- Recommendation 21** **175**
That the NSW Government commission research to determine the impact of recent government developments on the Botany Bay recreational fishing haven with a view to determining what mitigating actions and remediation programs can be established in proximity to the Botany Bay RFH to maintain or improve recreational fishing opportunities.
- Recommendation 22** **186**
That the Marine Parks Authority identify at least one location within each marine park where an artificial reef could be deployed without negatively affecting nearby sanctuary zones.
- Recommendation 23** **191**
That Industry & Investment NSW investigate increasing the involvement of the recreational fishing sector in research and information gathering on the population and health of fish stocks.
- Recommendation 24** **197**
That the allowance of four attended lines, with a maximum distance of 100m allowable to the fisher be reinstated, this issue should be revisited during the review of fishing rules that will follow the 2011 review.
- Recommendation 25** **204**
That Industry & Investment NSW produce a summary brochure of key recreational fisheries rules. These summary brochures should be distributed with renewal notices for recreational licences.
- Recommendation 26** **205**
That Industry & Investment NSW develop an email address database of recreational fishing licence holders with a view to using this as a means of direct communication and interaction with the recreational fishing sector.
- Recommendation 27** **206**
That Industry & Investment NSW investigate, with a view to developing, a fishing licence registration scheme for all licenced fishers other than exemptees.

- Recommendation 28** 211
That Industry & Investment NSW undertake a review of the staffing of compliance officer positions in view of the need for extra compliance officers.
- Recommendation 29** 212
That fin clipping for all recreational fish be investigated.
- Recommendation 30** 220
That Industry & Investment NSW fill the two vacant recreational fishing access officer positions.
- Recommendation 31** 222
That the Minister for Water consider the impacts of recreational fishing on water storage impoundments with a view to determining the types of fishing activities that could be permitted, in particular at the Prospect Reservoir on a trial basis.
- Recommendation 32** 238
That Industry & Investment NSW investigate a block licensing system for Aboriginal commercial fishers that will allow their family and community members to assist in beach hauling.
- Recommendation 33** 238
That Industry & Investment NSW should also investigate the suitability of the licensing system to be inherited by a family member along traditional lines without the family members having to apply for a new licence. These licences should be issued with comparative rights for the member inheriting the licence
- Recommendation 34** 255
That Industry & Investment NSW examine the potential for use by spearfishers of Recreational Fishing Havens, FADs and artificial reefs on a temporal or spatial basis.
- Recommendation 35** 264
That the Water Safety Advisory Council investigate the most appropriate type of lifejacket for rock fishers and publicise this information and further investigate the possibility of introducing mandatory use of life jackets for rock fishers particularly at high risk fishing sites.
- Recommendation 36** 269
That Industry & Investment NSW in consultation with recreational fishers and other relevant bodies, investigate and identify locations and circumstances in which limited commercial access can be maintained.
- Recommendation 37** 277
That Industry & Investment NSW publish information on the discarded by-catch in NSW.
- Recommendation 38** 282
That the NSW Government establish, and provide on-going support for, a permanent forum for the commercial and recreational fishing sectors to meet on a regular basis to discuss common issues.

Glossary

ACoRF	Advisory Council on Recreational Fishing
AFTA	Australian Fishing Trade Association
ANSA	Australian National Sportfishing Association
AMSA	Australian Marine Sciences Association
BIA	Boating Industry Association
BRUVS	Baited Remote Underwater Video Stations
CAR principle	Comprehensive, Adequate and Representative
COFA	Council of Freshwater Anglers
EARs	Estuarine artificial reefs
FADs	fishing aggregating devices
DECCW	Department of Environment, Climate Change and Water
FCA	Fishing Clubs Associations
GNS	Grey Nurse Shark
ICOLs	intermittently closing and opening lakes and lagoons
I & I	Industry & Investment NSW
IUCN	International Union for the Conservation of Nature
MER	monitoring evaluation and reporting program
MPA	Marine Park Authority
MPAC	Marine Parks Advisory Committee
NPA	National Parks Association
NRSMPA	national representative system of marine protected areas
NSW	New South Wales
NSWALC	New South Wales Aboriginal Land Council
OARs	Offshore Artificial Reefs
PSGLMP	Port Stephens-Great Lakes Marine Park
Recfish Australia	Australian Recreational and Sport Fishing Industry Confederation
RFH	Recreational Fishing Haven
RFSTEC	Recreational Fishing Saltwater Trust Expenditure Committee
RFFTEC	Recreational Fishing Freshwater Trust Expenditure Committee
UK	United Kingdom
USFA	Underwater Skindivers and Fishermen's Association
UVC	Underwater Visual Census

Chapter 1 Introduction

This chapter provides an overview of the establishment of the Inquiry, the manner in which the Inquiry was conducted and concludes with an outline of the structure of the report.

Establishment of the Committee

- 1.1 On the 24 November 2009 the Legislative Council appointed a select committee to inquire into recreational fishing in NSW. The Inquiry's terms of reference are reproduced on page iv.¹
- 1.2 The terms of reference required that the Committee examine the existing management of recreational fisheries in NSW, including Marine Protected Areas and Marine Parks. This examination was to also include the effectiveness and efficiency of the existing framework for regulatory, policy, and decision-making processes, the value of recreational fisheries to the NSW economy and ecologically sustainable development issues.

Conduct of the inquiry

Submissions

- 1.3 The Committee invited submissions through advertisements in *The Sydney Morning Herald*, *The Daily Telegraph* and major regional newspapers. Advertisements were also emailed to relevant fishing websites. Additionally, the Committee wrote to organisations and individuals with a likely interest in the Inquiry, including Australian government departments, NSW government agencies and fishing and conservation groups.
- 1.4 The Committee received 1036 submissions and 29 supplementary submissions from a wide range of stakeholders, including Industry & Investment NSW, the NSW Department of Environment, Climate Change and Water, the NSW Seafood Industry Council, and various commercial fishing enterprises. The Committee also received submissions from various fishing clubs and associations, recreational fishers and academics. Included in the total number of submissions received were five proforma type submissions with wording reflecting views as follows:
 - Supporting marine parks - 185 received, of these 123 included additional personal comment
 - Supporting marine parks and environmentally sustainable development - 311 received, of these 82 included additional personal comment
 - Supporting recreational fishing - 262 received, of these 60 included additional personal comment
 - Supporting additional scientific research into marine parks - 10 received
 - Supporting Marine Protected Areas - 6 received.

¹ *LC Minutes* (24/11/2009) 1544-1545.

- 1.5 A list of all submissions is provided in **Appendix 4**.

Public hearings

- 1.6 The Committee held ten public hearings during the Inquiry. Four public hearings were held at Parliament House on 19 and 27 April, 30 August and 3 September, 2010. The remaining six public hearings were held in coastal and inland regional locations across NSW, namely in Nowra 29 April; Port Stephens 4 May; Port Macquarie 5 May; Batemans Bay 26 May; Griffith 27 May; and Grafton 15 June, 2010.
- 1.7 In order to maximise the opportunity for stakeholder participation, the regional hearings commenced in the early afternoon and concluded in the evening.
- 1.8 A complete list of hearing witnesses is available in **Appendix 5**. Transcripts from the hearings can be found at the Committee's website.² A list of documents tendered by witnesses at the hearings and accepted by the Committee can be found at **Appendix 6**. Also available is a list of witnesses who provided answers to questions taken on notice during hearing in **Appendix 7**.

Site visits

- 1.9 The Committee undertook two site visits in regional NSW. For the first site visit the Committee boarded a sailing catamaran and inspected the Jervis Bay Marine Park. The second site visit took place at the Aboriginal Land Council, Mogo, where the Committee held a round table discussion with Aboriginal community representatives.
- 1.10 The Committee considered this report at its meetings on 22 and 29 November and 3 December 2010. The minutes of the proceedings of all Committee meetings relating to the inquiry are included in **Appendix 8**.

Report structure

- 1.11 Chapter 2 provides a brief overview of the practices of recreational and commercial fishing.
- 1.12 Chapter 3 examines the main threats to fish stocks and marine biodiversity, including fish stocks.
- 1.13 Chapter 4 explores the legislative methods for protecting fish stocks and the marine environment, including the implementation of marine parks.
- 1.14 In Chapter 5 the Committee discusses the effectiveness and efficiency of the current representational system of trusts and advisory committees that advise government departments and statutory authorities.

² The Committee's website can be found at <www.parliament.nsw.gov.au/fishinginquiry>

- 1.15** Chapter 6 investigates fishery programs delivered by the Department of Fisheries and Compliance, including recreational fishing havens, fish stocking, artificial reefs and fish aggregating devices.
- 1.16** Chapter 7 considers the regulation and management of recreational fishing in NSW, including, how recreational fishing regulations are developed; the ways in which the Government communicates rule changes to recreational fishers; the effectiveness of compliance activities; the impact of land management decisions on aquatic environments.
- 1.17** Chapter 8 examines Aboriginal cultural fishing in NSW, including the *Fisheries Management Amendment Act 1994*, the impact of marine parks on traditional Aboriginal cultural practices and Aboriginal commercial fishing.
- 1.18** Chapter 9 examines spearfishing and the issues specific to this method of fishing.
- 1.19** Chapter 10 discusses the pursuit of rock fishing, and particularly the issues of rock fishers' safety and access.
- 1.20** Chapter 11 provides an overview of the commercial fishing industry in NSW and its interactions with recreational fishing.

Chapter 2 Fishing basics

NSW has cool high country and warm interior freshwater systems; a narrow continental shelf; and a coastline typically interspersed with rocky headlands, beaches and estuary systems. Six main recreational fishery components are recognised, namely freshwater; estuarine and coastal; diving; sportfish; charter boat; and gamefish.

A general recreational fishing licence covering both salt and freshwater was introduced in March 2001 to replace the NSW freshwater angling licence. Licence fees go into a trust dedicated to improving recreational fishing for NSW anglers. An angler expenditure committee made up of recreational fishers and major recreational fishing organisations oversees the trust.

The freshwater fishery targets a number of species using lures and baits in rivers and reservoirs. The fishery may be subdivided into eastern, western and alpine regions. Depending upon the region, the main species caught include Murray cod (*Maccullochella peelii*), golden perch (*Macquaria ambigua*), Australian bass (*Macquaria novemaculeata*), rainbow trout (*Oncorhynchus mykiss*), brown trout (*Salmo trutta*) and yabbies (*Cherax destructor*). In the late 1990s there were about 140,000 anglers with licences for this fishery.

The estuarine fishery is a multi-gear and multi-species fishery. The prominent species caught include bream (*Acanthopargus australis*), flathead (*Platycephalus fuscus*), whiting (*Sillago ciliata*), luderick (*Girella tricuspidata*), tailor (*Pomatomus saltatrix*), mulloway (*Argyrosamus hololepidotus*) and various baitfish. Fishing effort is high and it is estimated that more than 250,000 anglers take part. In addition, estuaries are utilised by many other users; hence, the allocation of resources is topical in these ecosystems.

The diving fishery harvests a number of species mainly by hand or spear in coastal marine waters, often near rocky headlands. Species harvested include red morwong (*Cheilodactylus fuscus*), rock blackfish (*Girella elevata*), leatherjackets (*Monacanthidae*), luderick, abalone (*Haloitidis rubra*), rock lobster (*Jasus verreauxi*) and other shellfish.

The sportfish fishery is a multi-gear fishery operating from the shore and in inshore areas. Species targeted include tunas (*Thunnidae*), mackerels (*Scombridae*), kingfish (*Seriola lalandi*), flathead, snapper (*Pagrus auratus*), trevally (*Pseudocaranx dentex*), morwong (*Nemadactylus macropterus*), leatherjackets and various baitfish. Because of its proximity to densely populated areas and its inexpensiveness, the sportfish industry is estimated to cater to over 150,000 anglers and catch in excess of 1,000 tonne of fish per annum.

The charter boat industry cuts across the different habitats described previously (for example freshwater-offshore), with species caught varying accordingly. The fishery mainly involves the hire/charter of a professional guide who enhances fishing opportunities for less skilled fishers. There are in excess of 200 vessels operating along the NSW coast and the industry has the capacity to expand rapidly.

The gamefish industry occurs mainly in deeper waters adjacent to the edge of the continental shelf, where billfish (black, blue and striped marlin), tuna (albacore, yellowfin, striped) and sharks (whalers, mako, blue) are target species. Gamefishing has a strong and well-organised club component and fishing activities under the auspices of angling clubs involve an increasing emphasis on the tagging and release of caught fish, rather than their retention.

Recreational fishing in NSW is managed by catch controls (bag and size limits), restrictions on the type of gear (no fish traps or nets), closed areas and seasons and protected species. In 2002, 30 areas within estuaries were designated as recreational fishing havens, waters where no commercial fishing is allowed. Funds from recreational fishing fees were used to buy out commercial fishing licences operating in these locations. A range of additional activities is conducted to enhance recreational fishing including fish stock enhancement programs, fishing clinics and habitat conservation. Government and industry communicate and consult through meetings of statutory advisory councils, regional groups and angling associations.³

Fishing is a popular pastime for many Australians. This chapter briefly examines the practices of recreational and commercial fishing. Recreational and commercial fishing are primarily regulated by Industry & Investment NSW (I & I), who create and implement regulations such as bag and size limits. Within marine parks, the Marine Park Authority regulates access and imposes restrictions on carriage of fishing equipment. Other topics explored in this chapter include the contribution of fishing to the NSW economy, the role of fishing clubs and popular fish species.

As the title of the chapter suggests, this section provides a basic overview of fishing as the report will need to be understood by the broader community, including non-fishers.

Recreational fishing

2.1 Fishing commonly refers to the practice of extracting fish or other aquatic animals and edible marine invertebrates, such as octopus, abalone, crayfish and prawns from their natural environments for recreational or commercial purposes. A 12 month study of recreational fishing, commissioned as part of The National Recreational and Indigenous Fishing Survey and funded by the Fisheries Research and Development Corporation, Natural Heritage Trust, and by State fisheries agencies (including the NSW Department of Primary Industries), conducted during 2000-01, found that approximately 998,501 NSW residents fish recreationally and spend around \$550 million on fishing related items.⁴

2.2 Unless a member of one of the exempted categories of persons, a recreational fisher must pay the NSW Recreational Fishing Fee and carry a receipt showing payment of the fee when fishing. The cost of a licence depends on how long it is valid for. The current payment structure is:

- three day licence - \$6.00
- one month licence - \$12.00
- one year licence - \$30.00
- three year licence - \$75.00.⁵

³ Australian Government, Department of Agriculture, Fisheries and Forestry, <www.daff.gov.au/brs/fisheries-marine/info/descriptions-rec>, accessed 22 November 2010.

⁴ Lyle JM & Henry GW, *Survey of Recreational Fishing in New South Wales*, 2002, pp 4-8.

⁵ NSW Licensing Service, <www.licence.nsw.gov.au/gls_eservice/renewals/Application.aspx>, accessed 21 September 2010.

2.3 A total of \$13.4 million was raised through licence sales in 2008/09.⁶ All revenue raised from the recreational fishing fee is placed in either the freshwater or saltwater recreational fishing trusts. Recreational Fishing Trusts are further examined in Chapter 5.

2.4 A number of studies have been undertaken over the past decade to establish the economic value of recreational fishing in NSW. In its submission to the Inquiry the NSW Government provided a list of recent studies and their key findings. The studies highlight that recreational fishing plays a significant role in the NSW economy, of particular note is the positive impact the sport has on tourism in coastal and inland regional locations:

- Pepperell (1996) estimated direct and indirect expenditure on recreational fishing in NSW to be \$809 million. Regional expenditure represented 58 per cent of total expenditure and metropolitan 42 per cent.
- Henry and Lyle (2003) estimated direct and indirect expenditure on recreational fishing in NSW to be \$554 million in 2000/01. Regional expenditure represented 52 per cent of total expenditure and metropolitan 48 per cent.
- Dominion Consulting (2001) estimated direct and indirect expenditure on recreational trout fishing to be \$70 million in the Snowy Mountains area, which supported between 450 and 700 jobs.
- Dominion Consulting (2005) estimated direct and indirect expenditure on recreational fishing in Bermagui/Narooma to be \$25 million in 2003/04, which supported 260 jobs. Approximately 50 per cent of the people fishing in Bermagui/Narooma were visitors.
- Dominion Consulting (2005) estimated direct and indirect expenditure on recreational fishing in Port Macquarie was \$23 million in 2003/04, which supported 276 jobs. Approximately 75 per cent of the people fishing in Port Macquarie were visitors.
- Dominion Consulting (2003) estimated that direct and indirect expenditure by Sydney anglers associated with overnight and day fishing trips to coastal NSW was \$134 million, which supported 1,213 jobs.⁷

Types of recreational fishing

2.5 During the inquiry the Committee received evidence about the different types of fishing practices employed by recreational and commercial fishers. Below is a description of the techniques the Committee heard about over the course of the Inquiry.

Angling

2.6 Angling is the most widely recognised fishing practice; it refers to the use of a fishing rod equipped with various combinations of fishing line, reel, hooks, sinkers and/or floats. Hooks are usually dressed with lures or bait depending on the type of angling and targeted species. Fishers can angle in most NSW waters including bays, rivers, estuaries and offshore.

⁶ Submission 1007, NSW Government, p 5.

⁷ Submission 1007, p 16.

Land based angling

- 2.7 Land based or onshore angling is angling from the shore of a beach, bay, river or estuary; it may also take place from rocks, wharves, and other land-based platforms. Rock fishing is further examined in Chapter 10.

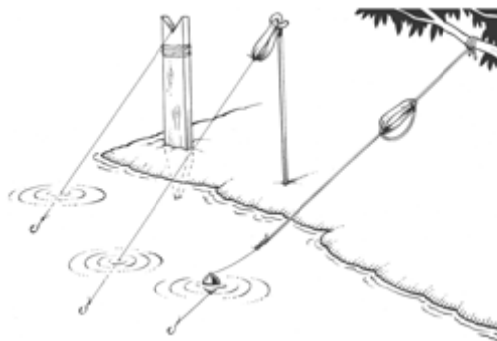
Set lines

- 2.8 Set lines (or attended lines) are predominately used by fishers in rivers west of the Great Dividing Range, including the Darling, Murrumbidgee and Lachlan Rivers. Set lines are lines with one or more hooks that are left baited in the water. NSW has regulations about the use and monitoring of set lines:

Two attended lines are permitted in all non-tidal waters other than some notified trout waters. Attended lines must be within 50 metres, in your sight and have no more than 2 hooks per line (except some notified trout waters) or 3 treble hooks per line attached to a lure.⁸

- 2.9 Setlines must also be clearly marked with the owners name and contact details. The issue of the regulations relating to the former practice of using unattended set lines is examined in Chapter 7. Figure 1 illustrates examples of different types of set lines.

Figure 1 Different types of set lines⁹



Offshore angling

- 2.10 Offshore angling is angling from a private or charter boat. Fishing techniques used during offshore angling include, bottom fishing, drift fishing, spinning, trolling and floating baits. NSW fishing rules and regulations extend to three nautical miles off the coast. The Commonwealth has jurisdiction over areas beyond three nautical miles. It should be noted,

⁸ Industry & Investment NSW (I & I), <www.dpi.nsw.gov.au/fisheries/recreational/regulations/fw/line-fishing>, accessed 17 June 2010.

⁹ Queensland Government, Department of Employment, Economic Development and Innovation, <www.dpi.qld.gov.au/28_3023.htm>, accessed 23 June 2010.

that offshore anglers fishing off the coast of NSW must abide by the State's bag and size limits.

Angling from a human powered vessel

- 2.11** Angling from a human powered vessel is the act of angling from a vessel that is not motorised, for example casting a line from a rowboat or kayak. Human-powered fishing has taken place for thousands of years and promotes good health and wellbeing.¹⁰ Modern kayaks can be equipped with GPS satellite systems and storage facilities which vary between models. These vessels can be used in most waterways, for example the Committee heard evidence of bass fishers accessing the Nymboida River using a kayak.¹¹

Handlining

- 2.12** Handlining is fishing with a fishing line, equipped with a combination of lures or baited hooks, a weight and/or float that is held in one's hand.

Nets

- 2.13** Recreational fishers can use certain nets to catch their prey. The type of net used is dependent on the species a fisher is attempting to catch. All nets are subject to Fisheries regulations. For example, the specifications for a hand-hauled prawn net included that it must be a maximum length of six metres and that it must not be staked or set, or joined or placed with any other net.¹²

Spearfishing

- 2.14** Spearfishing is the practice of free diving while using a spear to target fish. Spearfishers are not able to use SCUBA equipment to assist in the pursuit of their prey. Spearfishers claim their type of fishing is environmentally sustainable as they are able to sight and select their kill. Spearfishing is further examined in Chapter 9.

Bowfishing and shooting

- 2.15** A small number of inquiry participants called for restrictions to be lifted on bowfishing and shooting in NSW waterways. It was suggested that both practices could assist in the elimination of aquatic pests such as carp.¹³ Bowfishing can be described as:

... fishing or hunting of fish using a bow and arrow.

¹⁰ Mr Dan Bode, kayak angler, Evidence, 15 June 2010, p 1.

¹¹ Mr Scott Flynn, Committee Member, Big River Bass Fly Fishing Club, Evidence, 15 June 2010, p 26.

¹² I & I, <www.dpi.nsw.gov.au/fisheries/recreational/regulations/sw/methods>, accessed 20 September 2010.

¹³ Submission 29, Game Council NSW, p 1 and Submission. 76, Mr Rob Andrews, p 1.

- It may be shore based or boat based
- The fish must be seen to be shot

- Bowfishing uses a special arrow attached via a line to a reel on a bow
- Average distance of shot is less than 10 metres and often less than 5 metres.¹⁴

2.16 Although bowfishing is currently prohibited in NSW inland waterways, it may be practiced in saltwater under the same regulations as spearfishing.¹⁵ Bowfishing equipment includes bows, reels, bowfishing arrows and fish arrowheads.

Popular species and fishing techniques

2.17 Recreational fishers are afforded the opportunity to catch a wide variety of fish, other aquatic animals and edible marine invertebrates in NSW waterways, however they are subject to NSW bag and size limits.

2.18 The most commonly targeted saltwater recreational fish species have been identified as: flathead (*Platycephalidae*), bream (*Sparidae*), whiting (*Sillaginidae*), European carp (*Cyprinus carpio*), tailor (*Pomatomus saltatrix*) and luderick (*Girella tricuspidate*).¹⁶ The most popular non-fish species are abalone, squid, prawns, lobsters and crabs.¹⁷

2.19 Apart from European carp, the above species are found in saltwater. The most common freshwater species include: redfin, golden perch and trout.¹⁸ Murray cod is also a common freshwater species.

2.20 Some recreational fishers believe using artificial lures and tuna circle hooks ensures their catch has a greater chance of survival. Mr Lawrence McEnally, Director, Macleay River Fishermen's Cooperative, told the Committee that he regularly uses tuna circle hooks to catch his desired species, as this type of hook catches in the corner of a fish's mouth, as opposed to in a fish's gut.¹⁹

Club and non-aligned recreational fishers

2.21 Most of the fishers who appeared before the Committee were members of fishing clubs however the vast majority fishers are not aligned to any organisations. There are approximately 900 fishing clubs and organisations in NSW, of which 20-30 are major recreational fishing organisation.²⁰

¹⁴ Submission 29, p 1.

¹⁵ Submission 29, p 1.

¹⁶ *Survey of Recreational Fishing in New South Wales*, p 5.

¹⁷ *Survey of Recreational Fishing in New South Wales*, p 6.

¹⁸ *Survey of Recreational Fishing in New South Wales*, p 6.

¹⁹ Mr Lawrence McEnally, Director, Macleay River Fishermen's Cooperative, Evidence, 5 May 2010, p 28.

²⁰ Mr Bryan van der Walt, Acting Manager, Recreational Fisheries Programs, Industry & Investment NSW, Evidence, 19 April 2010, p 16.

2.22 Representatives of the following fishing clubs appeared before the Committee:

- Lakeside Fly Fishing Club
- Illawarra Flyfishing Club
- Junction Inn Fishing Club
- Hat Head Bowling & Recreation Club Amateur Fishing Club
- North Haven Bowling Club Fishing Club
- Lake Cathie Bowling Club Fishing Club
- Laurieton United Servicemen's Club Fishing Club
- Narooma Port Committee
- Narooma Sporting and Services Fishing Club
- Yenda Hotel Fishing Club
- Northside Leagues Fishing Club
- Tocumwal Fishing Club
- Canberra Fisherman's Club
- Big River Bass Fly Fishing Club
- Coffs Harbour Deep Sea Fishing Club
- Sea Bees Boating Club
- Monaro Acclimatisation Society.

2.23 Representatives from larger fishing groups who appeared before the Committee included:

- Underwater Skindivers & Fishermen's Association
- Australian National Sportfishing Association, NSW Branch
- South Coast Fishing Club Association
- South West Anglers Association
- Recreational Fishing Alliance of NSW
- New South Wales Council of Freshwater Anglers
- Australian Recreational and Sport Fishing Industry Confederation Incorporated (Recfish Australia).

2.24 As these fishing groups only represent a small percentage of fishers it is difficult to achieve comprehensive representation. The issue of the effective representation of the recreational fishing sector is examined in Chapter 5. Mr Peter Turnell, Director, Fisheries Resource Management, Industry & Investment NSW, highlighted this frustration:

The problem for us in New South Wales is we have approximately one million people who go fishing each year. There are 20 to 30 groups who like to put themselves

forward as peak representative groups. Only about 5 per cent of anglers across New South Wales are actually affiliated with those groups. Therefore, 90 per cent or more do not have association with any of the clubs. It is very difficult to get that complete representative structure in any advisory council.²¹

- 2.25** Fishers often cited the friendly, social atmosphere of their fishing club as the prominent reason for joining their chosen organisation. The Committee was told that clubs often run family days and host community events.²² Fishing clubs such as the Laurieton United Servicemens Club Fishing Club, North Haven Bowling Fishing Club and Lake Cathie Bowling Club Fishing Club also conduct competitions between members and other clubs.²³
- 2.26** Some clubs believe a benefit of joining a fishing club is that club officials often pass on information about rules and regulations. Non-aligned fishers are often dependent on the media and word of mouth for this type of information.²⁴
- 2.27** Certain fishing clubs also noted that they participate in environmental projects. Mr Timothy Becroft, President, Tocomwal Angling Club, told the Committee that over the past 11 years his club, with the financial assistance of the NSW Government, has stocked the Murray River with \$100,000 worth of fish.²⁵

Competitions

- 2.28** I & I has established a code of practice for organisers and participants in fishing events. The code promotes responsible fishing practices that are environmentally and socially sensitive. As previously mentioned, fishing clubs regularly host competitions for the members. The members of the Coffs Harbour Deep Sea Fishing Club can participate in their club's monthly one-day competitions, two day three-fish challenges and the Easter Classic, which runs for three days.²⁶ The club has established environmental guidelines for each event, for example in the one-day competitions members can only weigh one fish of each species.²⁷
- 2.29** Competitions can be held within marine parks. Mr Alan Jeffrey, Regional Manager, Department of Environment, Climate Change and Water, said that:

Recreational line fishing competitions are a regular feature in the marine park. They consist mainly of monthly outings run by recreational fishing clubs. Some clubs hold larger annual competitions, including the Easter Fishing Classic held by the Coffs

²¹ Mr Peter Turnell, Director, Fisheries Resource Management, Industry & Investment NSW, Evidence, 19 April 2010, p 12.

²² For example: Mr Julian Watson, Newsletter Editor, Illawarra Fly Fishing Club, Evidence, 29 April 2010, p 43 and Mr Raymond Robinson, President, North Haven Bowling Fishing Club, Evidence, 5 May 2010, p 37.

²³ Mr Geoffrey Williams, Member and Treasurer, Lake Cathie Bowling Club Fishing Club, Evidence, 5 May 2010, p 36.

²⁴ Mr Peter Craig, recreational fisher, Evidence, 27 May 2010, p 32.

²⁵ Mr Timothy Becroft, President, Tocomwal Angling Club, Evidence, 27 May 2010, p 38.

²⁶ Mr Geoff Parker, Fisheries and Environmental Spokesman, Coffs Harbour Deep Sea Fishing Club, Evidence, 15 June 2010, p 57.

²⁷ Mr Parker, Evidence, 15 June 2010, p 57.

Harbour Deep Sea Fishing Club, and the Dave Irvine Classic, which was held over the past long weekend. Spearfishing competitions are held regularly by the Coffs Harbour Bluewater Freedivers Club. These competitions limit the species that can be taken, and competitors may only weigh in one fish per species.²⁸

Commercial fishing practices

2.30 Although the Inquiry's primary focus is on recreational fishing in NSW, the Committee heard representations from commercial fishers. The commercial fishing industry generates approximately \$500 million per year and supports the employment of 4000 individuals including approximately 1000 commercial fishers.²⁹

2.31 Commercial fisheries can be classified according to the harvesting method used or by species. The NSW wild harvest fisheries are categorised as follows:

- Abalone Fishery
- Estuary General Fishery
- Estuary Prawn Trawl Fishery
- Lobster Fishery
- Ocean Hauling Fishery
- Ocean Trawl Fishery
- Ocean Trap and Line Fishery
- Inland Restricted Fishery
- Sea Urchin and Turban Shell Restricted Fishery.³⁰

2.32 Commercial fishers were particularly concerned about their loss of access to areas they had traditionally fished and the implementation of the commercial buy-out system that led to the establishment of recreational fishing havens.³¹ Commercial fishing is further examined in Chapter 11.

2.33 Commercial fishing representative who appeared before the Committee include:

- Sydney Fish Markets
- NSW Seafood Industry Council
- Women's Industry Network Seafood Community
- Alan A. Byrnes and Sons

²⁸ Mr Alan Jeffrey, Regional Manager, Department of Environment, Climate Change and Water, Evidence 15 June 2010, p 49.

²⁹ Submission 917, NSW Seafood Industry Council, p 2; NSW Department of Primary Industry, *Primefacts Sheet 825, Commercial fishing in New South Wales*, August 2008, p 1.

³⁰ NSW Department of Primary Industries, *PrimeFact 825 Commercial fishing in New South Wales*, August 2008, pp 2-3.

³¹ Mr Graeme Byrnes, Manager, Alan A. Byrnes and Sons, Evidence, 19 April 2010, p 46.

- Mr Leslie Cheers and Mrs Kathleen Cheers
- Mr Kelvin Wynn
- Macleay River District Fishermen's Cooperative
- Professional Fishermen's Association
- Clarence River Fishermen's Co-operative
- Nye Brothers Fishing Company.

Chapter 3 The threats to marine biodiversity

The Committee was appointed to inquire into and report on the benefits and opportunities that improved recreational fisheries may represent for fishing licence holders in NSW. At a macro level the best way to improve recreational fisheries is to address the main threats to healthy, sustainable fish stocks and marine biodiversity.

The known threats to marine biodiversity and fish stocks

- 3.1** Inquiry participants agreed that there are a number of significant threats to marine biodiversity, and in particular, fish stocks. The debate during the Inquiry centred on the relative impact of these threats, or which is the primary threat. Some participants argued that fishing is the primary threat to fish stocks. Others submitted that land-based, environmental impacts posed the greatest threat. This chapter considers all these threats, with particular attention being given to the impact of recreational fishing and environmental threats.
- 3.2** The 2008 report *A National Approach to Addressing Marine Biodiversity Decline – Report to the Natural Resource Ministerial Council* identified the five highest priority broad-scale threats to marine biodiversity to be:
- climate change
 - resource use
 - land-based impacts
 - marine biosecurity
 - marine pollution.³²
- 3.3** Each of these threats, as described in the report, are briefly summarised in the following sections.

Climate change

- 3.4** The report stated that the likely implications of climate change for the marine environment include, but are not limited to:
- loss, degradation of habitat or changes in distribution and density
 - changes in ocean currents, upwellings and productivity
 - displacement, distributional and abundance changes of marine species
 - loss of synchronisation between essential climate/weather/seasonal events affecting biota (such as mismatch between phytoplankton blooms and zooplankton growth)

³² Tabled document, Department of Environment, Climate Change and Water, *A National Approach to Addressing Marine Biodiversity Decline – Report to the Natural Resource Management Ministerial Council*, April 2010, p 21.

- lower ocean productivity and disrupted/changed food chains
- ocean acidification (changing the ability of calcium and carbonate-producing organisms to construct shells).³³

Resource use

3.5 The report states that sustainable resource use can co-exist with the maintaining of marine biological diversity. However, as Australia's marine waters are comparatively low in productivity, the report says that fishing and other uses of marine resources must be maintained at relatively low levels to provide ongoing access to these resources. Resource use activities encompass:

- fishing (recreational, commercial and Indigenous)
- illegal, unreported and unregulated (IUU) fishing (shamateurs)
- aquaculture/mariculture
- dredging and spoil dumping
- mineral, oil and gas exploration and extraction
- shipping
- tourism.

3.6 The report states that pressures associated with fishing and aquaculture include:

- marine community changes resulting from physical habitat disturbance and changes to community structures
- the unintentional take of non-target species in nets and gear
- the use of 'artificial' food sources typically derived from wild-caught fish
- the incorporation of antifoulants and antibiotics into marine ecosystems
- water quality
- changes resulting from the selective removal of predators, prey or competitors by specific fisheries.³⁴

Land-based impacts

3.7 The report states that human activities on land pose a major threat to the health, productivity and biodiversity of the marine environment. Globally about 80 per cent of marine pollution is generated from land-based activities, including diffuse pollution from urban and agricultural areas, point source emissions and solid wastes. Types of pollution include hydrocarbons, pesticides, other persistent organic pollutants, heavy metals, pathogens, nutrients, sediments, litter, and sewerage and associated chemical pollutants. Land-based activities and pollutants

³³ *A National Approach to Addressing Marine Biodiversity Decline – Report to the Natural Resource Management Ministerial Council*, p 22.

³⁴ *A National Approach to Addressing Marine Biodiversity Decline – Report to the Natural Resource Management Ministerial Council*, p 24.

from land-based sources can adversely impact marine life and ecosystems, and also marine-dependent industries. Once in the marine environment, the pollutants are absorbed by marine life, settle in river mouths and on the ocean floor, or follow currents and eddies to distant locations, which may be within a different jurisdiction to the source of the pollutant.

- 3.8** According to the authors of the report, unlike most other system-wide threats to the marine environment, addressing the threats from land-based sources can generally be tackled by individual State jurisdictions.³⁵

Marine biosecurity

- 3.9** The report states that marine biosecurity is a broad-scale threat to marine biodiversity. The implications of introduced marine pests include, but are not limited to:

- changes in distribution and density of habitat
- displacement, distribution and abundance changes in marine species assemblages
- disrupted food chains
- establishment and spread of new aquatic disease, pathogens and parasites
- hybridisation
- increased competition with native species for resources
- loss and degradation of habitat
- predation and domination of native species by introduced species.³⁶

- 3.10** The report warns that the threats of new incursions of introduced marine pests, or translocations of existing pests to new locations within Australia are real and immediate.³⁷

Marine pollution

- 3.11** The report states that the implications of marine pollution for marine biodiversity include, but are not limited to:

- degradation or loss of seafloor habitats and poorer water quality
- displacement of marine species and changes in their distribution and density
- increased concentrations of contaminants in marine organisms and resultant morphological or other effects
- reduction in relative abundance of top-order predators in marine ecosystems.

³⁵ *A National Approach to Addressing Marine Biodiversity Decline – Report to the Natural Resource Management Ministerial Council*, p 26.

³⁶ *A National Approach to Addressing Marine Biodiversity Decline – Report to the Natural Resource Management Ministerial Council*, p 28.

³⁷ *A National Approach to Addressing Marine Biodiversity Decline – Report to the Natural Resource Management Ministerial Council*, p 28.

- 3.12** The major types of marine pollution are oil, sewage, marine debris, pesticides, nutrients (for example, agricultural fertilizers and nutrients from finfish farming) residues in industrial wastewater, antifoulants, antibiotics, metals, radioactive waste and thermal pollution. The activities that cause marine pollution generally include shipping, boating (for example, vessel maintenance and littering), oil and gas exploration, mineral resource extraction, stormwater run-off and land management practices, agriculture such as, urbanisation, and mangrove and forest clearing where they are inappropriate.

The impact of recreational fishing

- 3.13** There were diverging views on the level of threat posed by fishing (both recreational and commercial) to fish stocks and marine biodiversity. Commercial fishing is examined in Chapter 11. Recreational fishers argue that their impact on fish stocks and marine biodiversity is minimal and sustainable and almost negligible when compared to other threats, most notably the commercial catch and land-based impacts. On the other side of the argument, the conservation sector point to the estimated large collective extraction of fish by the recreational sector as an obvious threat to the sustainability of fish stocks. The variance in the reliability of data on the commercial and recreational catch is discussed later in this chapter.
- 3.14** Recreational fishing can have an impact on the population of a specific species of fish depending on the overall number, size and reproductive capacity of those fish taken from the water. Given the intricate predator-prey interrelationship of the marine environment, the level of removing one species can have an effect on other species of fish and marine organisms.
- 3.15** As well as fish taken from the water for consumption, there is a level of mortality for fish that are caught and released or that suffer injury, including retaining hooks and tackle, as a result of fishing. Recreational fishing also impacts on the marine environment through discarded litter and fishing tackle and lines, either inadvertently, negligently or deliberately. General impacts associated with recreational boating, such as anchoring and vessel pollution, also apply to recreational fishing.
- 3.16** Eco Divers is a small volunteer organisation based on Sydney's Northern Beaches whose members enter the water two to three times a week to remove rubbish, survey fish, monitor seagrass, rescue animals and assist marine scientists. Mr Dave Thomas, President, Eco Divers, told the Committee that the group focuses on removing fishing debris and plastic which presents the highest risk of entanglement and ingestion to marine life. Each year the group removes between one and two tonnes of rubbish from the water and off the shoreline in the Manly-Mosman area alone.³⁸
- 3.17** Finally, there is the impact of recreational fishers who act illegally and deliberately remove fish or other organisms in breach of protected status regulations and bag and size limits. This threat is acknowledged by the recreational fishing sector itself. It should also be noted that the compliance level of recreational fishers, is approximately 88 per cent of those inspected.³⁹

³⁸ Mr Dave Thomas, President, Eco Divers, Evidence, 30 August 2010, p 47.

³⁹ Submission 1007, NSW Government, p 13.

- 3.18** The collective catch of the recreational fishing sector and the different views on the level of threat to fish stocks and marine biodiversity it actually posed were the primary focus of the Inquiry, and are examined in the following sections.

The effect of recreational catch on fish stocks

- 3.19** A number of inquiry participants voiced concern at the effect of the recreational catch and pointed to the fact that for many species the estimated recreational catch was greater than the known commercial catch. They believed that with an increasing population and with improvements in recreational fishing techniques and gear this impact would only increase.
- 3.20** Professor David Booth, Councillor, Australian Marine Sciences Association – NSW (AMSA), said that recreational fishing removes large numbers of important predators which impacts on marine ecological processes:

In fisheries management all sources of fish mortality must be considered to achieve fish sustainability. It is well established that recreational fishing removes large numbers of key fish species in New South Wales marine waters, including important predators such as mulloway, bream, flathead and also tailor.⁴⁰

- 3.21** Professor Maria Byrne, Member, Australian Marine Sciences Association - NSW, told the Committee she believed that research was required to ensure that the volume of the recreational catch, particularly with respect to recreational fishing havens (RFHs), was sustainable:

My understanding of recreational fishing havens is to improve the opportunities for recreational fishers. That is the bottom line, I would have thought. To improve the opportunity for recreational fishers, you want to make sure that those fish come back, are sustainable and that they are extracted in a sustainable manner. I am supporting the fish havens, absolutely; but I would like to see some research done to show how they are effective with respect to maintaining sustainable catch for generations to come. There is no point having a recreational fish haven now when everyone presently enjoys the extraction and bringing a fish home for tea. But if in 20 years time my children cannot go and get a fish to bring home for tea, then I would be concerned.⁴¹

- 3.22** Chapter 6 includes an examination of the research that has been conducted on the sustainability of fish stocks within recreational fishing havens.
- 3.23** Compared to twenty years ago there have been significant advances in technology to assist recreational fishers in their activity. A number of inquiry participants argued that these advances must correlate to a significant increase in the collective recreational catch. The Nature Coast Marine Group noted the substantial growth in ownership of recreational fishing vessels and posited that 'nearly all have fish finders and other high-tech equipment which greatly improves the ability of fishers to target schools of fish and their habitats.'⁴²

⁴⁰ Professor David Booth, Councillor, Australian Marine Sciences Association - NSW, Evidence, 27 April 2010, p 2.

⁴¹ Professor Maria Byrne, Member, Australian Marine Sciences Association - NSW, Evidence, 27 April 2010, p 7.

⁴² Submission 765, The Nature Coast Marine Group Inc, p 4.

- 3.24** In evidence, Mr Graeme Byrnes, Manager, Alan A. Byrnes and Sons, argued that the sophisticated technology available to recreational fishers made them almost quasi-commercial in their ability to locate and extract fish. Mr Byrnes compared how recreational fishing was undertaken thirty years ago to the potential capacity of recreational fishers today:

But that was rowing around in a boat on an estuary with no propulsion, no fishing reel, certainly with no GPS and no navigation system that would take me to the best point, as you can get now. The capacity of recreational fishers to be able to access information is space age now. You can go into the web now and get the coordinates of any reef you like. You can be the most hopeless recreational fisherman in the world. All you need is a boat, probably a pocketful of seasickness tablets, some bait, your lines and you can go out, put the coordinates in your GPS and away you go. The boat will steer you to exactly where you want to go and you are catching fish.⁴³

- 3.25** Fishing journalist Mr Al McGlashan agreed that the improvements in electronic gear made it easier for fishers to locate where the fish are.⁴⁴ However, Mr Ian Smith, Recreational Fishing Representative, Batemans Marine Park Advisory Committee, pointed out that while there have been improvements in fish locating devices this does not necessarily equate to increases in catches for most recreational fishers:

People seem to think that because we have electronic devices on our boats it is a simple matter to go out and reel in fish. Nothing could be further from the truth. You can go out there and see the fish, there are millions of them down there, but catching them is a slightly different story.⁴⁵

- 3.26** The Committee notes that not all recreational fishers have access to these improvements in fishing technology, or indeed even to a boat. As discussed later in this chapter it is acknowledged that it is a relatively small number of anglers that take most of the catch in the recreational sector.

Catch and release

- 3.27** Catch and release has become a more popular element of recreational fishing. Many submissions from recreational fishers argue that this increases the sustainability of recreational fishing. For example, Mr Scott Flynn, Member, Big River Bass Fly Fishing Club, said that all members of his club practice catch and release:

All of them are catch-and-release. I have never kept a bass, never eaten one. With respect to other species which we might go fishing for, like flathead or bream, it is just exercise fairness, return some, keep some. It depends on the bag limit. There is only a bag limit of two for bass and we always throw them back. As soon as you get them to the boat, unhook them and let them go.⁴⁶

⁴³ Mr Graeme Byrnes, Manager, Alan A. Byrnes and Sons, Evidence, 19 April 2010, p 47.

⁴⁴ Mr Al McGlashan, Fishing journalist, Evidence, 27 April 2010, p 56.

⁴⁵ Mr Ian Smith, Recreational Fishing Representative, Batemans Marine Park Advisory Committee, Evidence, 26 May 2010, pp 50-51.

⁴⁶ Mr Scott Flynn, Committee Member, Big River Bass Fly Fishing Club, Evidence, 15 June 2010, p 25.

3.28 Similarly, Mr Geoff Parker, Fisheries and Environmental Spokesperson, Coffs Harbour Deep Sea Fishing Club said that his club, which holds regular competitions, had made a conscious decision to change their competition rules in order to reduce the amount of fish taken, such as competing on a species basis, rather than volume of fish, and through tag and release competitions:

The top of our competitions is the Easter Classic, which runs for three days. The point score is taken off the biggest of each species over three days. We had a soft plastic competition last weekend. That was solely tag and release. The fish is put on a mat with a measurement on it, the measurement is recorded by camera and that is followed by a shot of the fish being released over the side. There were 230 people in 85 boats and to our knowledge no fish were taken—they were all returned. It was very successful.⁴⁷

3.29 Others argue that catch and release does have a negative impact on recreational fish stocks, as fish that have been caught and released can either perish as a result or suffer injury that increases their likelihood of mortality. A number of submissions called for more research on the mortality rates of fish that are caught and released.⁴⁸ Eco Divers argue that as fish populations decline more undersized fish are caught, and, they believe, at least 50 per cent of all catch and released fish die as a result of stress or injury.⁴⁹

3.30 The Nature Conservation Council of NSW said there was a clear need for improved understanding of the impacts of catch and release which should lead to an improved educational program on how to maximise survival rates of released fish.⁵⁰

3.31 A research project on how to maximise the survival of key species released by recreational fishers, jointly funded by the Recreational Fishing Trust and the NSW Government, has been on-going since 2004. Practices and techniques which improve survival of released fish have been developed and incorporated into a brochure promoting their use.⁵¹

3.32 Table 1 is from the NSW Government submission and illustrates the estimated survival rates of recreational species following release and the identified main factors which reduce survival of angler caught fish.

⁴⁷ Mr Geoff Parker, Fisheries and Environmental Spokesperson, Coffs Harbour Deep Sea Fishing Club, Evidence, 15 June 2010, p 57.

⁴⁸ For example: Submission 860, National Parks Association of NSW, p 7.

⁴⁹ Submission 981, Eco Divers Inc, p1

⁵⁰ Submission 784, Nature Conservation Council of NSW, pp 6-7.

⁵¹ Submission 1007, Appendix 4, p 20.

Table 1 Estimated survival rates of recreational species following release and the identified main factors which reduce survival of angler caught fish ⁵²

Species	% survival after release	Main factor for reduced survival
Yellowfin Bream	72-97	Deep hooking
Mulloway	73-81	Deep hooking and poor handling
Sand Whiting	93	Deep hooking
Snapper	67	Deep hooking and poor handling
Silver Trevally	63-98	Excessive time in poorly designed live wells
Dusky Flathead	96	Poor handling and sub-optimal live well water quality
Luderick	99	Poor handling
Tailor	92	Deep hooking
Australian Bass	92-100	Deep hooking
Golden Perch	73-100	Poor handling, sub-optimal live well conditions and high water temperatures
Murray Cod	85	Deep hooking, excessive handling, sub-optimal live well conditions

3.33 The Committee notes that the use of circle hooks significantly decreases the likelihood of deep hooking of fish. The Committee believes their increased use within the recreational sector should be encouraged.

Bag and size limits

3.34 Recreational fishers are regulated in the number and size of fish that they can extract each day. Size limits, which apply equally to recreational and commercial fishers, set for each species of fish, the minimum size that a fish must be if it is to be kept and not returned to the water. For recreational fishers the bag limit for a species sets the number of fish that can be kept, and in many cases directs that only a certain number may be over a certain size.

3.35 Recreational fishers, who appeared before the Inquiry, believe that appropriate bag and size limits are sufficient to regulate their activity and ensure that it is sustainable. They argued that other regulatory measures that restrict their activity – such as sanctuary zones in marine parks or the prohibition of electric reels – are not necessary.

3.36 However, quite a number of inquiry participants believed that in many cases the minimum size limit for certain species was too low and that some bag limits were too high. The Nature Coast Marine Group called for more research on appropriate minimum and maximum size limits. It stated that it was known that 95 per cent of dusky flathead need to be larger than the

⁵² Submission 1007, p 20.

current minimum size limit of 36cm before they breed.⁵³ Similarly, Professor Booth was critical of the basis upon which some size limits had been set:

...for instance, in cases in which the minimum legal size to catch a fish is well below the size of maturity of its species. There are various reasons for that that are beyond science, shall we just say. Those sorts of things may actually lead to some sort of meltdown of the species.⁵⁴

3.37 Professor Robert Kearney, Emeritus Professor, University of Canberra, told the Committee that in many cases current bag limits are ineffective as a fisheries management tool because they are so high that they do not seriously constrain the great majority of recreational fishers.⁵⁵ He also saw the need to constrain recreational fishing in circumstances when the collective threats to a species were too great:

I would like to see recreational catches of some other species reined in because I think the collective threats to some of them are fairly great. Snapper is one that worries me. I think the snapper catch is excessive. I think we need to rein that in. As I said, mulloway is the species that worries me most. Most of the species are in no danger of collapse. It is largely a myth that fishing will make them collapse. It very rarely happens. It happens in countries where there is no fisheries management. It does not happen in most others.⁵⁶

3.38 Mr Paul O'Connor, Principal Director, Fisheries and Compliance, Industry & Investment NSW (I & I), explained to the Committee how bag and size limits are used to sustainably manage fish stocks:

With recreational fishers, we have in particular a key tool with bag limits. But also, I guess size limits is another key tool which applies across both those areas. If, for instance, in our monitoring of fish populations we find that the size of a catch has dramatically shrunk, and we are concerned about whether or not the fish is still sustainable from a breeding point of view, we then ramp up the size limits and provide greater protection, so that can apply to both. So there is an array of tools which are available to us.⁵⁷

3.39 Mr O'Connor told the Committee that the biggest factor in determining size limits is biological information – that is the size at which a species will first breed. However, he noted that any decisions to change size limits are tempered by pragmatic realities.⁵⁸ That is any change in size limits could have a significant effect on commercial operations in terms of changes to commercial fishing gear and equipment. As a result plans to move to a higher size limit are sometimes implemented in a phased fashion.

⁵³ Submission 765, p 4.

⁵⁴ Professor Booth, Evidence, 27 April 2010, p 9.

⁵⁵ Professor Robert Kearney, Emeritus Professor, University of Canberra, Evidence, 27 April 2010, p 13.

⁵⁶ Professor Kearny, Evidence, 27 April 2010, p 20.

⁵⁷ Mr Paul O'Connor, Principal Director, Fisheries and Compliance, Industry & Investment NSW, Evidence, 19 April 2010, p 23.

⁵⁸ Mr Paul O'Connor, Evidence, Principal Director, Fisheries and Compliance, Industry & Investment NSW, 3 September 2010, p 5.

- 3.40** Bag and size limits, including some of the specific suggestions put to the Committee, are examined in more detail in Chapter 7.

Current estimates of the recreational catch

- 3.41** A number of submissions referred to a table constructed from selected data included within the *Status of Fisheries Resources in NSW 2006/2007*, which compared the commercial catch with the estimated recreational catch for 22 species of fish.⁵⁹ For each species the estimated range of the recreational catch is considerably greater than the commercial catch. This information has been reproduced in Table 2 on pages 26-27.
- 3.42** However, while the data for the commercial catch, which is easily obtainable, is based on assessment of yearly collected data, the wide-ranging estimates for the recreational catch is based primarily on data collected ten years ago. The need for a more accurate assessment of the recreational fishing catch is examined later in this chapter.
- 3.43** The Committee also notes that of the 22 species for which the upper limit of the estimated recreational catch is greater than the commercial catch, four have an exploitation status within the overfished category. As examined below there are currently twelve species within the overfished category.
- 3.44** Annual scientific fisheries resource assessments are used to determine the population status of fish species harvested by commercial and recreational fishers, and to identify the need for management intervention. This information is also used during periodic reviews of NSW fishing rules such as bag and size limit reviews, to help conserve fish stocks and mitigate the impact of increasing pressure on fisheries resources.⁶⁰
- 3.45** In evidence, Mr Peter Turnell, Director, Fisheries Resource Management, Industry & Investment NSW, described the resource assessment process and the factors that are considered when determining whether specific actions are required:

If I could describe the processes we were referring to earlier, about the resource assessment. Each year we will go through a process of resource assessment. We will look at the information that is available, including the catch rates and any other anecdotal information. We will get all the data we have internally from our catch records and our scientists in any work they have been doing. We will then consult more broadly with user groups, such as recreational fishers, commercial fishers, Aboriginal fishers, and anyone else that may be a stakeholder in the resource, and we will work through different species to try to work out if there are problems.

When there are indications of change, it may not always be a concern about a species. From time to time markets for fish, in particular export markets or local markets, may change. This may influence fishers, and in particular commercial fishers, to target more of those species, or less to none of those species. So there are a number of factors, other than just the health of fish populations, that may effect change. This

⁵⁹ For example: Submission 860, p 6; Submission 784, p 8; Submission 789, Name suppressed, pp 3-4; Submission 821, Mr John Olsen and Ms Jennifer Bryant, pp 3-4; Submission 822, Mr Dominic Barrington, pp 3-4; Submission 1036 Mr R G Greenwood, pp 3-4; Submission 962; Ms Lyn Cleary, pp 3-4.

⁶⁰ Submission 1007, p 5.

process is a bit all-inclusive, where we take into account all of those variables. We will then identify any species that do require special or specific actions. They can be dealt with either through the bag and size limit review—but that does not happen every year—and we can also establish resource planning groups to deal with particular species or small groups of species when we do have concerns about sustainability or about whether the current set of management rules are appropriate or not.⁶¹

- 3.46** In evidence Professor Kearney said that it was significant to note that the majority of the marine species taken by recreational fishers in NSW are in relatively good condition. Professor Kearney surmised that given the acknowledged declines in the aquatic environments upon which they rely, the health of these stocks is clear testimony of the extraordinary resilience of these species to fishing.⁶²
- 3.47** The following section examines the evidence and information provided to the Committee on the current status of fish stocks in NSW and whether they have declined or improved over the years.

The status of NSW fish stocks

- 3.48** In NSW there are currently 23 species, populations and ecological communities of fish and marine vegetation listed as threatened with extinction.⁶³ The 2010 Saltwater and Freshwater Recreational Fishing Guides list the threatened and protected species of fish that must be returned to the water carefully and without harm if taken by recreational fishers:
- 3.49** The Recreational Freshwater Fishing Guide lists the following species as threatened with extinction:
- Australian Grayling
 - Trout Cod
 - Eastern (freshwater) Cod
 - Macquarie Perch
 - River Blackfish
 - Silver Perch (limited recreational fishing allowed in listed stock impoundments)
 - Eel-tailed Catfish (in western rivers and unlisted western dams).
- 3.50** The Recreational Saltwater Fishing Guide lists the following species as threatened with extinction:
- Black Cod
 - Grey Nurse Shark

⁶¹ Mr Peter Turnell, Director, Fisheries Resource Management, Industry & Investment NSW, Evidence, 19 April 2010, p 24.

⁶² Professor Kearney, Evidence, 27 April 2010, p 12.

⁶³ Submission 1007, p 5.

- Southern Bluefish tuna (limited recreational fishing allowed)
- Green sawfish
- Great White Shark
- Giant Queensland Grouper
- Estuary Cod
- Eastern Blue Devil Fish
- Elegant Wrasse
- Ballina Angelfish
- Herbsts Nurse Shark
- Syngnathiformes (Seahorses, Pipefish, Pipehorses, Seadragons, Ghost Pipefish, Seamoths)
- Bluefish (except for Lord Howe Island)
- Blue/red/brown Grouper (cannot be taken by spearfishers, can be taken by line fishing).

3.51 As noted earlier in this chapter, each year, I & I fisheries scientists and invited experts review the information available on all key species and determine an exploitation status. Information on the status of these species is contained in the Status of Fisheries document located on the Department's website. This document is currently being updated to take into account the latest assessments.

3.52 The following table of selected extracts, taken from the *Status of Fisheries Resources 2006/2007* lists and defines the various exploitation statuses. It must again be noted that while the data for the commercial catch is reliable, the data for the recreational catch is based on extrapolation, hence the extremely wide range in estimated catch for some species.

Table 2 Comparison of total annual catch by NSW commercial and recreational fisheries ⁶⁴

Species	Exploitation status	Commercial catch (tonnes)	Recreational catch (tonnes)
Bluespotted flathead	Fully fished	125	320-450
Dart	Undefined	<5	15-50
Dusky Flathead	Fully fished	120	570-830
Founders	Undefined	<20	10-20
Grey Morwong	Overfished	40	130-210
Hammerhead Shark	Undefined (IUCN Vulnerable/	<5	10-50

⁶⁴ Submission 860, p 6.

Species	Exploitation status	Commercial catch (tonnes)	Recreational catch (tonnes)
	Endangered)		
Luderick	Fully fished	350	270-550
Mackerel Tuna	Undefined	15	<50
Mahi Mahi	Undefined	<5	100
Mako Shark	Undefined (IUCN Vulnerable)	6	30-140
Mulloway	Overfished	40	100-500
Pearl Perch	Uncertain	13	<30
Sand Whiting	Fully fished	14	230-460
Snapper	Growth overfished	200	180-250
Spanish Mackerel	Fully fished	5	10-100
Spotted Mackerel	Fully fished	25	10-100
Sweep	Fully fished	40	30-60
Tarwhine	Fully fished	75	130-210
Teraglin	Fully fished	10	70-110
Tiger Shark	Undefined (IUCN Near Threatened)	5	10
Yellowfin Bream	Fully fished	360	820-1070
Yellowtail Kingfish	Growth overfished	150	120-340

3.53 The Committee sought information on what was the optimal status category from a fisheries management point of view and on what action is taken if a fish species has an overfished status. I & I provided the following explanation:

There is a continuum of categories of fishing status ranging from lightly fished to moderately fished to fully fished. Lightly fished and moderately fished populations can sustain increases in fish catch. Generally, the maximum yield and associated economic benefits are being derived from fully fished fisheries with limited or no capacity to increase species catch and/or directed effort.

Growth overfishing simply refers to the situation where fish are generally harvested before they grow to a theoretical ideal size that takes best advantage of growth in relation to expected natural mortality. Although the yield per fish is not maximized, growth overfished stocks may still be healthy and there may be operational, ecological, economic and social reasons not to delay harvesting till fish reach a larger size. Accordingly, recovery programs are not required for all species categorized as growth overfished.

Recruitment overfishing is the most serious status and occurs when fishing pressure has reduced the ability of a stock to replenish itself. The category of overfishing is

used to capture situations where there is some evidence that excessive fishing mortality is being placed on stock, however, significant measurable evidence that would confirm the stock's status as recruitment overfished is lacking.

If a species taken in a NSW commercial fishery is determined as 'overfished' or 'recruitment overfished' the relevant Fishery Management Strategies trigger a requirement for appropriate recovery action, which is then initiated. A recovery program is not required for 'growth overfished' species if the existing harvest strategy and life history characteristics of the species provide sufficient protection.

The appropriate response to overfishing will vary between species and in most cases where the species was classified as overfished before development of the commercial Fishery Management Strategies, actions have already been included within those strategies to address many of the issues. For example, a trip limit for Gemfish has been in place for many years. In cases where NSW fishers are not the major harvester, recovery can only be achieved by recovery programs in other jurisdictions.⁶⁵

3.54 Currently twelve species are classified as overfished to some extent

Table 3 Overfished species:⁶⁶

Species	Status
Gemfish	Recruitment Overfished
Blacklip Abalone	Overfished
Eastern Sea Garfish	Overfished
Grey Morwong	Overfished
Jackass Morwong	Overfished
Mulloway	Overfished
School Shark	Overfished
Eastern King Prawn	Growth Overfished
Redfish	Growth Overfished
Silver Trevally	Growth Overfished
Snapper	Growth Overfished
Yellowtail Kingfish	Growth Overfished

3.55 If a species taken in a NSW commercial fishery is determined as overfished, the relevant Fishery Management Strategies require appropriate recovery action. To achieve this outcome a species specific recovery program may be developed which sets out a range of actions to

⁶⁵ Answers to written questions on notice, Mr Bryan van der Walt, Acting Manager, Recreational Fisheries Program, Industry & Investment NSW, 5 October 2010, Question 1, pp 13-14.

⁶⁶ Answers to questions taken on notice during evidence, Mr Bryan van der Walt, Acting Manager, Recreational Fisheries Program, Industry & Investment NSW, 3 September 2010, Question 1, p 1.

return the fishery to acceptable levels. The recovery program will also set out a timeframe for that process (including reviews) and may specify further appropriate action should recovery targets not be met.

3.56 I & I has recently initiated development of a stock recovery program for mullocky and a number of specific management actions are being considered. It is expected that a draft of the proposed program will be available for public comment in the near future.⁶⁷

3.57 The Committee received a range of views on the health of fish stocks within the State. Many submissions argued that fish stocks are down on what they were decades ago, while other inquiry participants said they had noted increasing abundance of fish in recent years. As well many participants noted that fish species often ebb and flow for unknown reasons and this has always been the case.

3.58 Mr Mel Brown, spearfisher, said that spearfishers generally notice things that are occurring in the ocean several years before they are reported in research, and that their observation is that fish stocks are actually increasing, not decreasing:

Spearfishers will generally notice things that are occurring in the ocean several years before researchers pick them up. Certainly with the proliferation of recreational fishing reserves and other items, we are quite confident the overall quantity of fish in New South Wales has been increasing and doing so for a number of years.⁶⁸

3.59 Ms Mary Howard, Director, NSW Women's Industry Network Seafood Community, pointed out that commercial fishers' records demonstrate that they were consistently harvesting tonnes of a variety of fin fish from Lake Macquarie from 1955 until 2002 when it was established as a recreational fishing haven (RFH).⁶⁹ I & I reported an increase in certain fish stocks in Lake Macquarie and Tuross Lake after both areas were declared RFHs.⁷⁰ Chapter 6 contains information on the research that reported these increases.

3.60 Throughout the public hearings the issue of plague proportions of leatherjackets was raised. Some inquiry participants thought it might be due to inappropriate commercial practices in removing some predator species. It was also put to the Committee that the current bag limit of 20 should be removed and recreational fishers enlisted to remove this over-abundance to reduce its negative impact on other fish species.⁷¹ In evidence Mr Bryan van der Walt, Acting Manager, Recreational Fisheries Programs, Industry & Investment NSW, said that historical records show that the leatherjacket population has gone through boom and bust for no discernible reason:

⁶⁷ Answers to questions taken on notice during evidence, Mr van der Walt, 3 September 2010, Question 1, p 1.

⁶⁸ Mr Mel Brown, spearfisher, Evidence, 29 April 2010, p 32.

⁶⁹ Submission 522, Ms Mary Howard, p 4.

⁷⁰ Steffi AS, Murphy JJ, Chapman DJ, Gray CC, *An assessment of changes in the daytime recreational fishery of Lake Macquarie following the establishment of a Recreational Fishing Haven*, NSW Department of Primary Industries, Fisheries Final Report Series No 79, 2005, p 77; Steffi A, Murphy JJ, Chapman DJ, Barrett GP, Gray CA, *An assessment of changes in the daytime, boat-based, recreational fishery of the Tuross Lake estuary following the establishment of a 'Recreational Fishing Haven'*, NSW Department of Primary Industries, Fisheries Final Report Series No 81, 2005, p 54.

⁷¹ Mr Stephen Dial, Moderator, *NewcastleFishing.com*, Evidence, 4 May 2010, p 15.

With regard to leatherjackets, there is a boom in offshore leatherjacket populations and the offshore leatherjackets have had a long history of commercial and recreational exploitation which goes back to the 1880s and those historical reports from commercial fishers, even from the 1880s show that jackets were troublesome to snapper fishers at that time. The commercial catch records since then have shown significant declines and increases in the populations, so there has been a lot of variation in leatherjackets. There is no current scientific evidence to explain the current boom in the most recent population. A possible explanation could be the optimal environmental conditions which have provided for really good recruitment. I guess the history of catches has shown there have been quite big fluctuations in the leatherjacket populations.⁷²

3.61 The Committee notes that in the *Status of Fisheries Resources 2006/2007* that both grey and jackass morwong were classified as fully fished, and have now moved to a status of 'overfished'. It also notes that the Harvest comment for mullocky in the 2006/2007 document stated that the age composition was strongly indicative of an overfished stock and the spawning potential ratio was below the recommended threshold, and that a recovery plan would be drafted in 2008.⁷³

3.62 During the Inquiry issues relevant to the status of or threats to a number of specific species were consistently raised. Threats to mullocky, snapper, grey nurse sharks and bass are considered in the following sections.

Mullocky

3.63 As noted above there have been concerns about the mullocky stock for some time, and a recovery program for mullocky commenced during the course of the Inquiry. The current recreational size and bag limits for mullocky are a minimum size limit of 45cm and a bag limit of five. Within the bag limit only two fish may be over 70cm in length. mullocky is classified as 'overfished'.

3.64 The issue was examined early during the Inquiry process. Professor Kearney said he had some doubts as to whether there was a sole cause for the decline in the mullocky stock:

There is no doubt it is in decline—I think anybody can see that—and I have some doubts about the cause of the decline. I think that environmental problems is probably a good example to give you, such as the fact that Warragamba Dam has not overflowed for 25 years, and the Hawkesbury is the acknowledged best nursery area for mullocky, it is not surprising that there are serious problems there.

However, it is also possible that with recreational fishing and the advent of soft plastic lures that people were catching bigger fish than they had previously, and this has helped with the decimation of the population. They are all possible; I think they are all likely and all contributors.⁷⁴

⁷² Mr Bryan van der Walt, Acting Manager, Recreational Fisheries Programs, Industry & Investment NSW, Evidence, 3 September 2010, p5

⁷³ NSW Department of Primary Industries, *Status of Fisheries Resources in NSW 2006/2007*, 2008, p xv.

⁷⁴ Professor Kearney, Evidence, 27 April 2010, p 17.

- 3.65** Professor Kearney acknowledged that there was no realistic alternative other than to constrain the recreational catch while identifying the actual cause for the decline and any possible solutions.⁷⁵
- 3.66** At the public hearing at Grafton the Committee heard evidence from the Mr Ken Thurlow, ECOfishers NSW, who advised he had been invited to be part of the Mulloway Recovery Committee. Mr Thurlow said that there had been concerns for a number of years that the brood stock was down to between 20 and 30 per cent. He noted that in the last 18 months there had been good reports of juvenile mulloway from three or four areas up and down the coast.⁷⁶
- 3.67** The reports of a dramatic increase in juvenile mulloway were also relayed to the Committee by Mr Parker. Mr Parker believed the increase was due to the number of floods experienced on the East Coast that flushed out the estuaries taking the juvenile mulloway into the larger ocean environment.⁷⁷
- 3.68** Mr Thurlow said there are three prime mulloway estuaries in NSW – the Hawkesbury-Nepean system, the Hunter and the Richmond. In evidence Mr Thurlow gave his understanding of the early life cycle of the mulloway and the issues that the recovery committee would need to consider:

What determines a good Mulloway estuary is a shrimp called the Mysid Shrimp, which is a tiny shrimp that is the basic food for juvenile Mulloway. Mulloway grow very quickly. Within two years they are about 70 centimetres long. The mysid shrimp lives in deep holes in the estuaries. Juvenile Mulloway have to find this habitat and live on the Mysid Shrimp. They are weaned off the Mysid Shrimp when about 30 centimetres long and they start to feed on juvenile prawns in the estuary. The biology of the prawn is that they go to sea to mature, so it is a life cycle of 12 to 18 months. The juvenile Mulloway, not surprisingly, follow the prawns to sea. Commercial prawn trawlers target prawns on the phase of the moon when they run to sea to spawn.

Inadvertently, they catch many juvenile Mulloway. This was the issue that we were concerned about, and there were no escape mechanisms in the cod ends of trawl nets. There still aren't and they are not mandatory at this stage until March next year I think. Tonnes and tonnes of juvenile Mulloway are being inadvertently caught as by-product. They are very soft. It is no use putting them back out once they come out of the cod ends; they are squashed, they are dead and so on and so forth. So our proposal was to have a Nordmore grid type escape device in cod end. It did not have to be a Nordmore grid. It can be just square mesh panel where juvenile fish can get out of. That is the life cycle basically of the Mulloway. They grow very quickly.⁷⁸

- 3.69** During his appearance before the Committee at the public hearing in Port Stephens, Mr Bob Penfold tendered a copy of the editorial from the May 2010 edition of *New South Wales Fishing Monthly* which comments on the recovery program for mulloway. The editorial

⁷⁵ Professor Kearney, Evidence, 27 April 2010, p 18.

⁷⁶ Mr Ken Thurlow, EcoFishers NSW, Evidence, 15 June 2010, p 69.

⁷⁷ Mr Parker, Evidence, 15 June 2010, p 65.

⁷⁸ Mr Thurlow, Evidence, 15 June 2010, p 69.

states that millions of juvenile mullock are destroyed in commercial river school prawning, and that many recreational fishers would be happy to forgo using prawns as bait if there was a trade-off in being able to catch more mullock on other baits and lures.⁷⁹

3.70 Mr David Anderson, Chairman, Clarence River Fishermen's Co-operative, said he was aware of previous discussions on increasing the mesh square size on estuary trawl nets in order to limit the incidental catch of juvenile mullock. He said that the obvious concern for commercial fishers would be the ramifications on their operations.⁸⁰

3.71 Some inquiry participants were critical that when concern was expressed by the recreational fishing sector over the health of a specific species too much time was taken to address the issue and that the process needs to be reviewed.⁸¹

3.72 The development of a recovery action plan for mullock took longer than was originally anticipated. A participant in the recovery program stated that the process and the outcome was well regarded:

...Scientists were involved and lay people like myself that have some anecdotal experience, and we were able to question, come back and forward to each other, and we got outcomes that were sustainable.⁸²

...It has got to go through the Seafood Industry Advisory Council. It has been through ACoRF. So it went through the subcommittee—it is a program to save the mullock; they changed all the regulations regarding size and bag limits on mullock. That went really well, it was a two-day session, but we just could not get out of there until we all roughly agreed on what should be done to preserve mullock and still keep them as a marketable industry. I believe we got a good result—and that will go through SIAC as well.⁸³

3.73 I & I subsequently advised the Committee that the specific management actions likely to be included in the recovery program will impact on both the recreational and commercial sectors:

... I & I NSW has initiated development of a stock recovery program for Mullock and established a resource planning group, consisting of researchers, fisheries managers and stakeholders from commercial, recreational and conservation sectors, to assist in developing a draft recovery program for further consultation.

... Discussions focused on the available scientific information and on potential options to reduce the risk of further declines. To achieve this, the program is likely to include actions to reduce fishing pressure on adults and juveniles, as well as recommendations for further research to collect the information needed to fill knowledge gaps. Success of the recovery program should see an increase in the spawning biomass and more 'older' fish in the population as a result of enhanced protection for mature breeding individuals.

⁷⁹ Tabled document, Mr Bob Penfold, *New South Wales Fishing Monthly* editorial, May 2010, p 21.

⁸⁰ Mr David Anderson, Chairman, Clarence River Fishermen's Co-operative Evidence, 15 June 2010, p 44.

⁸¹ For example: Submission 986, EcoFishers NSW, p 1.

⁸² Mr Adrian Wayne, Vice-President, Underwater Skindivers and Fishermen's Association, and delegate of Advisory Council on Recreational Fishing, Evidence, 3 September 2010, p 48.

⁸³ Mr Wayne, Evidence, 3 September 2010, p 53.

Some of the specific management actions being considered include:

- Appropriate changes to size limits for both commercial and recreational sectors
- Reduction in the recreational fishing bag limits
- By-catch limits and reduced targeted fishing for commercial estuary fishers
- Commercial catch limitations for mullocky on ocean beaches
- Improvements to the current by-catch reduction devices used in the estuary and ocean trawl fisheries
- Promoting better post capture handling practices for commercial and recreational fishers
- A program to collect the information needed to monitor the mullocky population and verify its status.⁸⁴

Committee comment

- 3.74** Mullocky was probably the species most often cited when inquiry participants sought to highlight the impact of recreational fishing on fish stocks, given the estimated recreational catch was believed to be somewhere between two and a half times to eight times greater than the commercial take. However, it would appear that the assessment of the commercial catch does not include the incidental catch of juvenile mullocky, and this combined with the wide estimate range for the recreational catch makes valid comparisons difficult.

Snapper

- 3.75** Snapper has a fishing exploitation status of 'growth overfished'. The current size limit for snapper is 30cm. There were calls from the recreational sector for the size limit to be increased.
- 3.76** Mr Thurlow noted that, even though it shares the same East Coast stock as NSW, Queensland has a size limit of 35cm. He said that in 2002 there was an understanding that the size limit for snapper would be progressively increased from 28cm (the then size limit) to 35cm over three years. Mr Thurlow said the basis for the proposed increase was that at 35cm, 90 per cent of the stock are sexually mature.⁸⁵
- 3.77** In evidence, Mr Turnell acknowledged there were strong different views between the recreational and commercial sectors on the appropriate size limit for snapper. He said that while biological information is taken into account, so must the impact any change would have on the effectiveness of the commercial sector:

A number of things are taken into account. There are strong differing views between the commercial and recreational sector as to what the appropriate size for snapper is. Obviously, biological information is taken into account as well as, from a commercial perspective, the likely by-catch of what would become the undersize snapper under a much larger size limit. So, it may be appropriate to have a larger size limit for snapper from a biological perspective but we need to take into account the likely by-catch of the smaller snapper if we were to increase the size limit. Simply because fishing

⁸⁴ Answers to written questions on notice, Mr van der Walt, 5 October 2010, Question 3, pp 14-15.

⁸⁵ Mr Thurlow, Evidence, 15 June 2010, p 70.

methods currently used in the commercial sector in a multi-targeted fishery would continue to catch snapper of a certain size unless a significant change was made to them. If a significant change was made to those commercial fishers that would then draw into question their effectiveness to harvest other species such as bream and leather jacket.⁸⁶

- 3.78** In 2008/09 of the total snapper catch by commercial fishers in NSW, approximately 78 per cent was harvested in fish traps, 20 per cent by line and two per cent by trawl. The Committee sought advice on whether if undersized snapper were caught in fish traps it was likely that they could be released without harm, and thus pave the way for an increase in the size limit without requiring changes to commercial gear.
- 3.79** I & I advised that ocean fish traps must have escape panels that are large enough for undersized fish to swim through and escape from the trap when being lifted. The likelihood of undersized fish being released without harm depends on the depth of the trap and how quickly it is retrieved. Fish that are caught from deep depths may be susceptible to barotraumas (the effects of gas expansion in the body caused by capture at depth and being brought to the surface rapidly). Research in Western Australia and NSW has shown snapper to become more susceptible to barotraumas at depths greater than 30 metres.⁸⁷
- 3.80** Concern was also expressed that there appeared to be many small-sized snapper, below the NSW legal limit of 30cm, available in retail outlets. In evidence I & I suggested that this could be due to the fact that a lot of snapper available in NSW is imported from New Zealand and Western Australia.⁸⁸ The Committee was subsequently advised that the size limits in New Zealand are 27cm and 25cm while in Western Australia they are 41cm and 50cm.⁸⁹ The Committee was not provided with information on the volume of New Zealand snapper imported into NSW, but it would appear that the sale of undersized snapper in retail outlets may be due to the lower size limits in that country.

Grey Nurse Sharks

- 3.81** The Grey Nurse Shark (GNS) is listed as a 'critically endangered' species. The *Fisheries Management Act 1994* provides for the declaration of critical habitat for endangered and critically endangered species. Grey Nurse Sharks are known to aggregate in numbers for periods in certain locations. These known aggregation sites are logical candidates for protection either by declaration as critical habitat and/or through appropriate zoning or restrictions within marine parks.
- 3.82** The need to protect GNS was frequently raised during the Inquiry. On one hand there were calls for the protection of all known GNS aggregation sites, and for an enlargement of the size of the protected boundaries centred on these sites. On the other hand it was argued that there were many more GNS in existence than was previously assumed to be the case, and that the

⁸⁶ Mr Turnell, Evidence, 3 September 2010, p 4.

⁸⁷ Answers to questions taken on notice during evidence, Mr van der Walt, 3 September 2010, Question 2, p 2.

⁸⁸ Mr Turnell, Evidence, 3 September 2010, p 5.

⁸⁹ Answers to questions taken on notice during evidence, Mr van der Walt, 3 September 2010, Question 4, p 3.

protection of aggregation sites was unjustly restricting fishing. In addition there were diverging arguments on the threat that fishing now posed towards these animals.

3.83 Twenty years ago GNS were actively targeted by game and spear fishers, which no doubt contributed to the decline of the species. However recreational fishing organisations ceased this practice well before they were legally required to do so.

3.84 Some participants said that there was scientific evidence that numbers of GNS are much greater than was previously reported as being the case.⁹⁰ Professor Kearney served on the Commonwealth Threatened Species Scientific Committee that was involved in listing the GNS species. Professor Kearney told the Committee that there was no doubt that the assessment of the GNS population provided to that Committee was incorrect:

...the assessment that was given to the Commonwealth Threatened Species Scientific Committee about the size of the population was about 470 individuals. I do not think there is any doubt that it was wrong. The current assessment suggests that it is closer to somewhere between 1,200 and 2,000. There is a higher assessment by another researcher that seems to me to be very reputable, and looks really good, that suggests it is around 1,800⁹¹, which is a lot bigger. I am not saying that you do not need to be concerned but a lot less concerned.⁹²

3.85 Mr Peter Saunders, President, Underwater Skindivers and Fishermen's Association (USFA), said that his members are aware of a number of unknown sites that carry comparatively large populations of GNS. Mr Saunders said that spearfishers who are aware of local important GNS sites are now disinclined to share this information for fear of being excluded from them.⁹³

3.86 Mr Lawrence McEnally, Director, Macleay River Fishermen's Cooperative reflected a widely held belief by recreational fishers that there are many more grey nurse sharks than currently estimated. Mr McEnally believed there are probably four or five times more than the official estimate. Similar to the USFA, Mr McEnally said that fishers were reluctant to advise Fisheries of known sites for fear of further restrictions:

There has now been a Commonwealth study⁹⁴ that shows there are at least 1,200 grey nurse sharks, but that is inside 20 metres, which is the diveable depth. The grey nurse shark ranges out to at least 110 metres, so there is probably four or five times that number. Getting the truth out above politics has been difficult. We would like people to know that there are a great many grey nurse sharks. Let me be honest about the grey nurse shark. We have a couple of night fishermen who hand-line mulloway. There are places that they cannot fish because the grey nurse sharks wipe them out night after night—there are that many grey nurse sharks on some of those reefs.⁹⁵

⁹⁰ For example: Mr Doug Joyner, Executive Officer, Australian Fishing Trade Association, Evidence, 30 August 2010, p 23.

⁹¹ Bansemer, C.S. (2009); Bansemer, C.S. and Bennet, M.B. (2008)

⁹² Professor Kearney, Evidence, 27 April 2010, p 19.

⁹³ Mr Peter Saunders, President, Underwater Skindivers and Fishermen's Association, Evidence, 27 April 2010, p 30.

⁹⁴ Lincoln-Smith, M. (2007)

⁹⁵ Mr Lawrence McEnally, Director, Macleay River Fishermen's Cooperative, Evidence, 5 May 2010, p 23.

3.87 As mentioned earlier GNS, while mobile, do aggregate in numbers at sites for certain periods. Within the Batemans Marine Park, the Montague Island (inner) habitat protection zone at the northern end of Montague Island has additional restrictions between 1 November and 30 April each year in order to protect the GNS that aggregate there during this period. Fishing is allowed with the exception of the following:

- no fishing with bait
- no fishing at anchor
- no fishing with a wire trace line
- no nets (landing nets are allowed).

3.88 I & I further advised that with respect to the selection of GNS critical habitat sites, that some sites are occupied most of the year while other sites tend to be occupied seasonally, particularly sites at the edge of the species migratory range. To reflect this some sites have year round restrictions, and others, such as Montague Island have seasonal restrictions.

Are recreational fishing methods a threat to GNS?

3.89 If a fisher catches or hooks a GNS, he or she is required by regulation to return the GNS to the water carefully and without harm. The Committee received quite contradictory evidence on the likely interaction between fishers and GNS and on the level of harm when such interaction does occur.

3.90 Spearfishers argue that as their sport is sight-based they pose no threat to GNS. On this basis they contend there is no reason why they should be excluded from protected GNS aggregation sites.⁹⁶

3.91 A number of recreational line fishers told the Committee that they had never hooked, or were aware of any other fisher who had ever hooked a GNS. Mr McGlashan told the Committee that he regularly fished for kingfish, who he said live side-by-side with GNS, and with live bait, yet he had never heard of an angler catching a GNS.⁹⁷ The Committee did hear evidence from fishers who had hooked GNS, who said it was a simple matter of releasing them without harm.⁹⁸

3.92 However, the Committee received evidence from a number of other sources that indicate that fishing does present a threat. Mr Adrian Wayne, Vice-President, Underwater Skindivers and Fishermen's Association, and delegate, ACoRF, said that it is undeniable that GNS do take hooked fishing lines and that he himself has seen GNS with hooks hanging out of their mouths.⁹⁹

3.93 Spot a Shark is a GNS Photo ID research project, established in conjunction with the Marine Ecology Group at Macquarie University. The ultimate goal of the project is to help conserve the GNS population along the east coast of NSW by, among other things, developing a solid

⁹⁶ Mr Saunders, Evidence, 27 April 2010, p 30.

⁹⁷ Mr McGlashan, Evidence, 27 April 2010, p 60.

⁹⁸ Mr McEnally, Evidence, 5 May 2010, p 23.

⁹⁹ Mr Wayne, Evidence, 3 September 2010, p 48.

data base of images to assist current and future scientific projects. The submission from Spot a Shark included images from locations in Solitary Islands, Fish Rock and Seal Rocks of Grey Nurse Sharks trailing fishing tackle.¹⁰⁰

- 3.94** The Committee was advised of preliminary results of research conducted by I & I at Fish Rock on the relative risks of different fishing methods.¹⁰¹ The research suggested that fishing with bait is a high risk method, while trolling with lures was a low risk fishing method:

The available evidence suggests that trolling lures is a much lower threat to grey nurse sharks than bait fishing and in this respect could co-exist in proximity to grey nurse shark aggregation sites. These arrangements are proposed at North and South Solitary Islands in the current review of the Solitary Islands Marine Park.

...In respect of hook type, circle hooks are more likely to mouth hook fish, and tend to result in less gut and oesophageal hooking. However, they do not guarantee that gut and oesophageal hooking can not occur...the use of high risk fishing method (for example bait fishing) in close proximity to grey nurse shark aggregation sites is not recommended as hooking is likely, and can result in a range of injuries, stress, infection, and morbidity regardless of hook type. For example many grey nurse sharks carry gaffing injuries where fishers have attempted to remove hooks.¹⁰²

Committee comment

- 3.95** The GNS remains listed as a critically endangered species. The Committee is of the view that while-ever this listed status remains, high-risk fishing methods should continue to be appropriately precluded from areas where there is a high risk of interaction.
- 3.96** It was difficult for the Committee to quantify the interaction between fishers and Grey Nurse Sharks. Some might argue that the real impact of fishing tackle on GNS mortality should be evaluated in order to develop correct management.

Bass

- 3.97** Australian bass are protected from commercial fishing in NSW. The recreational limits for bass are a bag limit of two in total, four in possession, only one of which may be over 35cm. A closed season from 1 June to 31 August also applies.¹⁰³
- 3.98** A number of inquiry participants raised concerns over the impact of commercial fishing practices, particularly in the Clarence River, on the Australian Bass population. Members of

¹⁰⁰ Submission 771, Spot A Shark, pp 4-6.

¹⁰¹ Industry & Investment NSW, *Investigating the behavioural response of grey nurse sharks to recreational lures and baited lines*, 2010 (in prep).

¹⁰² Answers to questions taken on notice during evidence, Mr van der Walt, 3 September, Question 17, p 12.

¹⁰³ The bag limit for Bass applies in combination with Estuary Perch

the Big River Bass Fly Fishing Club related their concerns regarding the permitted use of commercial nets within the Clarence River:

We believe that the length of the set is the reason for the high mortality rate during that time. Even when nets are set for, say, three hours, bass are still dying. The regulations say that in many cases the use of nets is by means of a throw and retrieve, which is a continuous action. However, the regulations also say that during certain periods you can set the nets for longer periods. We believe that the longer periods for set nets are the main problem. We also believe that the way to reconcile that issue is to shorten the sets to splashing, which is throw and retrieve, or at least minimise the overnight set to three hours or less.¹⁰⁴

3.99 Mr John Williams, recreational fisher, also raised this issue with the Committee at the public hearing in Grafton. He argued that even when working within the restrictions, the practice of deploying commercial fishing nets leads him to wonder how bass can survive:

Compliance in the Clarence says they have to have a white float clearly marked with their identification, of 150 millimetres radius. They deploy a net—they can have up to 1.4 kilometres of net. If they have three nets of 450 metres they are deployed in such a way as to make a chicane for the fish to pass through. That is one guy setting three nets. Another guy two miles down the river sets three nets et cetera. How there are any bass left at all is a miracle.¹⁰⁵

3.100 Mr Anderson agreed that by-catch was definitely an issue of local concern and media attention that would need to be resolved in the future.¹⁰⁶ Mr Scott Flynn and Mr Mark Thompson, Big River Bass Fly Fishing Club, also said they were aware of reports of individual instances of professional fishermen being caught in possession of bass. They conceded that there was local hearsay, but not evidence, that such transgressions were widespread.¹⁰⁷

3.101 During the early stages of the Inquiry the Committee raised these concerns with I & I. The Department advised that while incidental by-catch of the species did occur as a result of commercial operations, scientific assessment indicated the practice was being managed on a sustainable basis.¹⁰⁸

3.102 Given the evidence it received at the Grafton hearing in particular, the Committee sought further information from I & I on its assessment of commercial practices within the Clarence River. The Committee was advised that that the by-catch of Bass from the use of meshing nets was very small:

Strict rules govern the use of, and number of commercial fishers that may use meshing nets in NSW. Specifically, in addition to a suite of temporal and spatial fishing restrictions, minimum mesh sizes, maximum net lengths and setting times are set out in legislation.

¹⁰⁴ Mr Flynn, Evidence, 15 June 2010, p 20.

¹⁰⁵ Mr John Williams, recreational fisher, Evidence, 15 June 2010, p 80.

¹⁰⁶ Mr Anderson, Evidence, 15 June 2010, p 41.

¹⁰⁷ Mr Flynn, Evidence, 15 June 2010, p 20; Mr Mark Thompson, Treasurer, Big River Bass Fly Fishing Club, Evidence, 15 June 2010, p 21.

¹⁰⁸ Answers to questions taken on notice during evidence, Mr Bryan van der Walt, Acting Manager, Recreational Fisheries Programs, Industry & Investment NSW, 19 April 2010, Question, 12, pp 8-9.

Meshing nets are deployed from small (<6m) boats and are used by the methods of setting or splashing. Setting involves nets with larger mesh sizes being deployed then left in the water at night for up to 3 hours or overnight depending on the time of year. Deploying the net and immediately retrieving it in a continuous operation is termed splashing. The rules governing when and where each method may be used are designed to maximize the post-release survival of incidentally caught fish and quality of the retained catch.

I & I NSW has previously done comprehensive observer-based research surveys on the use of meshing nets in NSW. Overall, 2675 commercial meshing net catches were observed throughout the State and over 31 tonnes of fish were caught. Approximately 3.3% of the catch (by weight) was discarded. Australian bass represented less than 0.1% of this discarded catch.¹⁰⁹

- 3.103** I & I said that they had previously received specific references regarding problems, or perceived problems, with the protection of bass in the Clarence. The department advised that it has spoken directly with compliance officers and local stakeholders to try to ensure that any issues were being addressed.¹¹⁰

Committee comment

- 3.104** Despite the advice from departmental officers it is clear that local concerns about commercial activity, both legal and illegal, persist. The Committee notes that the department has previously sought to examine this issue and allay any concerns.
- 3.105** The Committee is of the view that given the persistence of these concerns, further action should be undertaken. The Committee recommends that as soon as practicable compliance activity be directed to ensuring that the rules governing the use of meshing nets in the Clarence are being complied with.

Recommendation 1

That Industry & Investment NSW ensure that as soon as practicable compliance activity is undertaken to enforce compliance with the rules governing the use of meshing nets, particularly in the Clarence River.

Call for an Environmental Impact Statement on recreational fishing

- 3.106** There was a call from many inquiry participants for an Environmental Impact Statement (EIS) to be undertaken for recreational fishing, the primary, but not sole, component being an

¹⁰⁹ Answers to written questions on notice, Mr van der Walt, 5 October 2010, Question 4, p 15.

¹¹⁰ Mr Peter Turnell, Director, Fisheries Resource Management, Industry & Investment NSW Evidence, 19 April 2010, p 28.

accurate assessment of the overall recreational fishing catch. The Nature Conservation Council of NSW was one participant that called for the recreational sector to undergo the same assessment as commercial fisheries:

In the view of the Nature Conservation Council, the recreational fishery urgently needs to undergo an environmental impact statement [EIS], which then informs the strategy to manage the fishery based on the findings of that environmental impact statement. All the commercial fisheries have been obliged to do this, and it seems illogical that a major sector of the overall New South Wales fishing effort in the recreational sector has not yet followed suit.¹¹¹

3.107 Mr Byrnes was one of the inquiry participants who noted that at the time of the passage of the *Fisheries Management Act 1994* there had been an expectation that a full EIS would be undertaken for recreational fishing:

It is not just the extraction of fish; it is the use and discarding of fishing lines and a whole host of issues similar to those in the commercial sector. I recall well that I sat in the gallery in the Legislative Council watching the original legislation going through the Parliament. It was fair in that it provided for assessment for every extraction method and category that there is—commercial, recreational, shark meshing, fish stocking, et cetera. For some reason or other between then and now recreational fishing has been excluded from that process and I think that was an error. For the sake of the security of the resource the recreational sector should be subject to assessment.¹¹²

3.108 Mr Byrnes said the lack of an EIS is the 'Achilles heel' for the recreational fishing sector, as it leaves it exposed to criticism that it is not serious about its impact upon the fishing resource.¹¹³

3.109 Mr Malcolm Poole, Chairman, Recreational Fishing Alliance of NSW, said that several years ago the Recreational Fishing Trust had set aside several million dollars for the development of a recreational fisheries management strategy. However, on subsequent departmental and Ministerial advice the funds were returned and redirected to other projects.¹¹⁴

3.110 Mr O'Connor advised that the focus of the EIS on commercial fishing was the type and quantity of fishing gear, and its impact on the sustainability of fishing resources. Mr O'Connor further advised that specific elements relevant to recreational fishing were subjected to individual EISs:

Commercial fishing is allowed to use a wide range of techniques that are not available to recreational fishers. Recreational fishers generically can use one, two or several individual fishing lines or they can use one lift net or one trap. The quantity and type of gear available to recreational fishers is very limited whereas commercial fishers are allowed to use very large quantities and very long nets.

¹¹¹ Mr Ben Birt, Marine Conservation Officer, Nature Conservation Council of NSW, Evidence, 30 August 2010, p 1; see also Submission 860, National Parks Association of NSW, p 6.

¹¹² Mr Byrnes, Evidence, 19 April 2010, p 47; see also Mr John Harrison, Professional Fishermen's Association, Evidence, 15 June 2010, p 10.

¹¹³ Mr Byrnes, Evidence, 19 April 2010, p 47.

¹¹⁴ Mr Malcolm Poole, Chairman, Recreational Fishing Alliance of NSW, Evidence, 30 August 2010, p 29.

They are allowed to use a variety of types, some of which trawl over the ground and some of which are mid-water, et cetera. Commercial fishers are given a whole bunch of privileges that may have greater environmental impacts than the recreational fishers. The focus of those environmental impact statements really was on understanding whether those fishing types and the quantities of gear fishermen were allowed to use were sustainable or not. The type and quantity of gear recreational fishers are allowed to use is much less, so we did not believe it was necessary to undertake the EIS in the same way. We did identify certain activities, such as fish stocking, which arguably could have a much greater environmental impact, so we did undertake environmental impact statements on those sorts of activities. It has been a question of identifying the issues and then addressing them appropriately.¹¹⁵

- 3.111** Mr Mark Fleming, Vice President, Coastwatchers Association, said that he believed that all impacts of recreational fishing need to be measured. However, his primary concern was that the extraction by the recreational sector was not being measured.¹¹⁶

Committee comment

- 3.112** There was almost universal consensus among inquiry participants that there was a pressing need for an accurate and informed assessment of the level of the recreational catch.
- 3.113** However, it was necessary and appropriate that Environmental Impact Statements were undertaken for each category of commercial fishery. It would be difficult if not impossible to undertake a single similar process for all the activities encompassed within recreational fishing. Research and impact statements on specific actions such as the impact of catch and release and fish stocking have, and continue to be, undertaken.

The need to accurately determine the recreational catch

- 3.114** Inquiry participants told the Committee of the overwhelming need to accurately determine the recreational catch through a new recreational fishing survey. Current data is ten years old and cannot be used to accurately reflect the state of the recreational fishery today. There was discussion during the Inquiry about the type of data that should be included in any new recreational fishing survey, including the need to find out how many people actually engage in recreational fishing.
- 3.115** The NSW Government submission said that overall the recreational catch equates to around 30 per cent of the total commercial catch by weight. However, the estimated harvest of some popular species such as bream, mulloway, dusky and blue spotted flathead may account for around 70 per cent of the total harvest of those species.¹¹⁷
- 3.116** These estimates were obtained from the NSW components of the 2001 national survey of indigenous and recreational fishing, which was undertaken over a 12-month period from 2000

¹¹⁵ Mr O'Connor, Evidence, 19 April 2010, p 23.

¹¹⁶ Mr Mark Fleming, Vice President, Coastwatchers Association, Evidence, 26 May 2010, p 14.

¹¹⁷ Submission 1007, p 3.

to 2001. Mr O'Connor explained how that survey had been undertaken:

There were two aspects. The first was a telephone survey, which identified the proportion of individuals contacted who fished. If they did fish, they were asked where they fished and what species they caught. They were asked follow-up questions and if they said they caught specific species they were asked further follow-up questions. As indicated, that was complemented by a detailed diary of daily fishing events kept by a string of recreational fishers. That information was used to provide estimates of what species were caught and in what numbers. By comparing that with what we know about commercial catches we got an estimate of the proportion of the total catch taken by recreational fishers.¹¹⁸

3.117 The Committee notes that this survey was conducted prior to the buy-outs of commercial fishers that accompanied the implementation of RFHs and some marine parks. In evidence, Mr Turnell said that over this time, notwithstanding the buy-outs, commercial catch rates had remained stable while recreational fishing has potentially become more popular, based on increases in licence sales and an expected increased participation as more people retire to coastal areas.¹¹⁹

3.118 Mr Len Olyott, Chief Executive Officer, Australian Recreational and Sport Fishing Industry Confederation (RecFish), said that while NSW could be considered ahead of the game in many areas of fisheries management, it was, in his opinion, behind other States in terms of overall data collection:

That is quite a difficult question to answer because it is very difficult to fault New South Wales Fisheries on their approaches to date. They are a leading example. Perhaps one of the areas where they could take a lead from some of the other States—notably, Tasmania, South Australia and the Northern Territory—is in terms of data collection and collecting information about recreational fishing. To date New South Wales has not repeated the national survey methodology to obtain a statewide estimate of the numbers of fishers out there and their economic contribution. I think that is probably an area where New South Wales needs to agree that for the greater good a national figure on a total fishing population is of great value. That is probably one area that they could take notice of.¹²⁰

3.119 In evidence, Mr O'Connor said that the Department faced a constant challenge to improve the accuracy of its assessment of the recreational catch:

We do comprehensive reports that are available approximately every five years. We are about to release another report later this year. We do annual reviews of all species. We look at the catch data that we have from commercial fishermen's records and also the information that comes from our scientific surveys. The reason there are much larger confidence intervals around the recreational catch data is because of the way the data is collected. We basically do it through surveys. We do a lot of creel surveys but we also do surveys of individual fishermen about what their activities are, what they catch,

¹¹⁸ Mr O'Connor, Evidence, 19 April 2010, p 13.

¹¹⁹ Mr Turnell, Evidence, 19 April 2010, p 13.

¹²⁰ Mr Len Olyott, Chief Executive Officer, Australian Recreational and Sport Fishing Industry Confederation Incorporated, Evidence, 19 April 2010, p 38.

et cetera. Then we extrapolate from that to the size of the fishing population. So, that is why there are large confidence intervals around our recreation data and there is a constant challenge to try to improve that. That is certainly one of the focuses the department has.¹²¹

- 3.120** Later in evidence Mr O'Connor gave more detail on the creel surveys and again noted that they extrapolate:

One of the types of survey we do is an attempt to try to find out how many people are fishing in a particular area and what sort of fisheries they are involved in. That gives us data of a broad sort but then we also want to undertake detailed studies of what they catch in a particular area. So we do what are called creel surveys where we have people go out there and talk to fishermen about what they had caught and inspect their catches. So, we get the detailed studies from some sorts of surveys and broad information from the other sorts of surveys. Then you put the two together and extrapolate.¹²²

- 3.121** The Committee was further advised that when conducting recreational catch surveys the focus is on retained catch, as the potential for statistical error for estimates of discarded catch tends to be quite large.¹²³

- 3.122** As stated previously, there were calls from all sections of inquiry participants for better information and monitoring of the recreational catch. Mr Harrison said that accurate information would allow current assumptions about recreational fishing to be reliably tested:

If you do not know the take of one of the major sectors in the fishery, how is it possible to manage it? You must have that information at your fingertips to be able to manage the resource in a sustainable way. I will provide an example. We think that about 80 per cent of the catch of Mulloway is taken by the recreational sector. Let us find out; let us quantify that. It is going to cost the Government to put the resources up to find out what the catch is and how much is being released. If that is married with the commercial catch, then we will have a figure that we can start with and manage that take.¹²⁴

- 3.123** Mr Richard Tilzey, retired fisheries scientist, said that long-term funding for a statewide monitoring program for recreational fishing was a necessity. He believed that such research should be prioritised:

In the wild fisheries section we have 51 projects currently underway. Of these projects, 18 receive funding from the Recreational Fishing Trust. Only three of these 51 projects are concerned with monitoring. Unless you know what is being caught where and when, how are you going to manage any fisheries? Monitoring is really a key issue. Of these three programs the game fishing and bass tournament monitoring has been underway for quite a long time, it is a long-established program. There was a

¹²¹ Mr O'Connor, Evidence, 3 September 2010, p 3.

¹²² Mr O'Connor, Evidence, 3 September 2010, p 18.

¹²³ Mr Bryan van der Walt, Acting Manager, Recreational Fisheries Programs, Industry & Investment NSW, Evidence, 3 September 2010, p 28.

¹²⁴ Mr Harrison, Evidence, 15 June 2010, p 19.

recreational survey in the greater Sydney region and there is a program titled Development of Cost-Effective Methods for Monitoring and Assessing Spatial Management Options for Recreational Fisheries in New South Wales. I urge that this sort of program be given long-term funding.¹²⁵

- 3.124** Dr Will Figueira, Member, Australian Marine Sciences Association - NSW, said that it was important to assess the catch from all of the different components of the recreational fishing sector. He said regular data collection of this sort was a feature of fishery management in the United States:

Recreational fishing on specific stocks are inherently included as part of our management program. In relation to recreational fishing assessments, I can speak mostly of the United States because that is what I have had most involvement in. There is data available every two months, or six times a year, based on phone surveys and diary surveys of all the different fishing groups, such as charter boats and private individuals. That data has been specifically included in stock assessments, which are federally mandated to be done on all stocks. They start with the most vulnerable and they move through and redo them as often as they can. It is quite an elaborate process.¹²⁶

- 3.125** Dr Figueira noted that the ability to develop a useful and efficient sampling frame was dependent upon having access to fisherperson information. A number of other inquiry participants also referred to the fact that the actual number of fishers within NSW is unknown.

How many recreational fishers are there?

- 3.126** There are approximately one million fishing licence holders in NSW annually. However it is impossible to accurately estimate the number of persons that go recreational fishing in the State, as pensioners, children and Aboriginal people are exempted from requiring a licence.

- 3.127** As mentioned previously a number of participants rued the fact that information is unavailable on the total number of people who fish, where they are located and what fish they target and catch.¹²⁷ Mr Max Castle, Past President and Life Member, Sea Bees Boating Club, suggested that there needs to be a means of registering every fisher in the State:

The problem we have at the moment is that there are a number of people in the community who do not need to have to register for a licence. That needs to be addressed, even if it means that a nominal fee, let us say of \$5, applies to pensioners and children—or it might be \$2, whatever the cost is of printing out a plastic licence. As soon as you do that, you capture exactly how many people are fishing. At this stage we do not know.¹²⁸

¹²⁵ Mr Richard Tilzey, retired fisheries scientist, Evidence, 26 May 2010, p 32.

¹²⁶ Dr Will Figueira, Member, Australian Marine Sciences Association - NSW, Evidence, 27 April 2010, p 8.

¹²⁷ For example: Mr Olyott, Evidence, 19 April 2010, p 38; Mr Graeme Turk, Managing Director, Sydney Fish Market, and Chair, New South Wales Seafood Industry Council, Evidence, 19 April 2010, p 46.

¹²⁸ Mr Max Castle, Past President and Life Member, Sea Bees Boating Club, Evidence, 3 September 2010, p 59.

- 3.128** As is examined in Chapter 7 many participants suggested there was a need to increase communication channels with fishing licence holders and to capture more information that would be useful for management purposes. The USFA, for one, recommended that when licences are purchased or renewed the process should include capacity for the licence holder to indicate: the type of fishing they engage in; whether they would like to have information sent to them via email; and whether they would be interested in partaking in fisher surveys.¹²⁹

Who takes most of the recreational catch?

- 3.129** I & I advised that when it undertakes assessments of the recreational catch it extrapolates the information gleaned from its surveys to the size of the fishing population. There is a generally held understanding that between ten to twenty per cent of recreational anglers take ninety per cent of the recreational catch. Mr Turnell confirmed that past studies had shown this to be the case:

In the past studies have also shown that it is a relatively small number of anglers that take most of the catch in the recreational sector. A lot of people are out there for the enjoyment and are not necessarily harvesting significant numbers of fish, while a smaller group know what they are doing. I suspect that the bag limit being capped at 20 would be an issue for a relatively small number of highly skilled people.¹³⁰

- 3.130** Professor Kearney in his submission stated that a major gap in recreational fisheries management is the lack of adequate measures to more equitably allocate resources within the recreational fishing fraternity. In evidence, Professor Kearney suggested that bag limits need to be reduced as a means of allocating resources within the recreational sector, he also noted the problem that the very best anglers are often not included in survey information:

I asked—knowing I was going to be talking to you today—the person in charge of New South Wales recreational fisheries on Friday if he had any more recent data on this 10 percent, taking 90 per cent of the catch, and he said he did not but he disagrees slightly with me—he thinks it is a little bit lower than that, he thinks it is probably 20 per cent or something like that. I think he is wrong because the surveys you do never get the very best anglers—they refuse to be surveyed, you know—so I think it is that high.

Most significantly, he said that a very recent bit of work they have done showed that 40 per cent of the boated anglers, that is, fishing in boats in estuaries, caught absolutely nothing. An awful lot of people out there would like to catch one more fish. I think that the bag limits need to be ratcheted down for two or three purposes, the primary one being allocation within the recreational sector.¹³¹

Committee comment

- 3.131** There was a weight of evidence received during the Inquiry from all the sectors who, while disagreeing on many other issues, agreed on the need to have as accurate as possible assessment of the NSW recreational fishing catch. Given this, it is likely the Committee would have recommended that a new comprehensive assessment be undertaken.

¹²⁹ Mr Saunders, Evidence, 27 April 2010, p 31.

¹³⁰ Mr Turnell, Evidence, 19 April 2010, p 14.

¹³¹ Professor Kearney, Evidence, 27 April 2010, p 18.

- 3.132** I & I advised that they recognise that updated measures of recreational catch and effort are needed and that it was undertaking action to develop an estimate of recreational effort and catch for both freshwater and saltwater fisheries in NSW:

Recognising this need, I & I NSW is currently hosting a series of workshops to design a statistically robust and cost-effective statewide survey of recreational fishing to meet the data needs in NSW. It is likely that the survey methodology will involve a combination of an off-site phone survey (following the model of the modified National Survey design that has recently been used in South Australia and Tasmania) and a regional on-site validation study to validate the results of phone/diary method to ensure accuracy. The development of the survey methodology is taking into account the large body of information that was recently collected during the Greater Sydney region recreational fishing survey.¹³²

- 3.133** The Committee welcomes this action. The Committee notes that the survey should seek to be as comprehensive and accurate as possible taking into account any regional variations and the various types of fishing and fishers that comprise the recreational fishing sector. They should also be undertaken with sufficient frequency to be useful for planning and managing recreational fishing, for example every five years. The Committee also suggests that the data needs of NSW include determining the total number of people fishing in NSW and further identifying the characteristics of the sections of the recreational sector that is taking the majority of the catch.

Recommendation 2

That the NSW Government, as a high priority, provide appropriate funding to ensure the design and implementation of a statistically robust survey that will provide as accurate as possible assessment of recreational fishing catch and effort throughout NSW, and that this survey is undertaken once every five years.

That the NSW Government consider funding and commissioning an Environmental Impact Statement (EIS) to review and evaluate the recreational fishing catch and effort in NSW waters.

Environmental threats

- 3.134** The NSW Government submission articulates the link between healthy fish habitat and biodiversity and fish stocks. Recreational fishing is dependent on healthy aquatic ecosystems. There is a direct link between biodiversity, fish habitat and fish stocks. The NSW State Plan 2010 maintains a key priority to protect our native vegetation, biodiversity, land, rivers and coastal waterways and includes targets for maintaining or improving the condition of these ecosystems. Climate change, pollution, resource use (including fishing), land-based impacts, introduced pests and diseases, barriers to fish passage and changes in riverine flows are all recognised as the key threats contributing to declines in habitats, changes in ecosystems and loss of biodiversity.

¹³² Answers to written questions on notice, Mr van der Walt, 5 October 2010, Question 7, p 17.

- 3.135** Fisheries and protected areas management play an important role to help ensure the sustainability of our fisheries resources and aquatic biodiversity. In NSW, fisheries and marine protected area management programs are complemented and supported by broader natural resource and catchment management programs, climate change adaption initiatives, landuse planning, Environmental Trust programs, pollution reduction and environmental water programs. These programs aim to protect ecosystems, however it is important to where possible to rehabilitate degraded habitat.
- 3.136** In the same way that poor activities on land can impact on our freshwater and marine ecosystems, initiatives focused on improving land and aquatic based practices can benefit these same systems. For example, Catchment Management Authorities have invested \$590 million over the past three years to 2008/09 and plan investments of another \$105 million in 2009/10 on such improvement activities.¹³³
- 3.137** The NSW Government submission further notes the scale of the current impact on fish habitat and its resultant effect on fish stocks. The key species targeted by recreational fishers in NSW spend most of their life in estuaries, mainly as juveniles, where they receive food and protection from predation. Likewise, all native freshwater fish require a diverse array of habitats as food and spawning and nursery areas. However, since European settlement, NSW has lost over 60 per cent of all its coastal wetlands, while 97 per cent of assessed river length in NSW has been modified in some way. Fish passage in many rivers and creeks have been blocked by floodgates, weirs, causeways and impoundments. These impacts have reduced production of recreational fish species.¹³⁴
- 3.138** In evidence Mr Cameron Westaway, Senior Fisheries Manager, Inland, Industry & Investment NSW, said there were many threats that continue to impact on native fish in inland waters. He said considerable action had been taken, but noted that it was a huge task requiring significant further action:
- Direct loss of fish from water extraction, mortalities from passage through weirs, cold-water pollution, disconnection through loss of fish passage, invasive species, poor water quality, loss of habitat and sedimentation and, of course, drought and climate change all continue to impact on native fish in inland waters. Considerable research and habitat rehabilitation is taking place but much remains to be done. Many species—not angling species but many species—are in series trouble especially those species which rely on water flows, wetlands or are more vulnerable to habitat damage and invasive species. These species include catfish, Macquarie perch and small bodied natives such as Oxleyan pygmy perch, olive perchlet, purple spotted gudgeons and flathead galaxias, which are all listed as threatened in New South Wales.¹³⁵
- 3.139** Many representatives from the recreational and commercial fishing sectors emphasised to the Committee that they saw land-based impacts as the greatest threat to marine biodiversity, including fish stocks. Both groups also contended that the NSW Government was focusing too much on fishing restrictions and the establishment of marine parks as a means of protection, and thereby neglecting the more serious threats. Some participants drew the

¹³³ Submission 1007, p 3.

¹³⁴ Submission 1007, p 6.

¹³⁵ Mr Cameron Westaway, Senior Fisheries Manager, Inland, Industry & Investment NSW, Evidence, 27 May 2010, p 67.

Committee's attention to incidents of large-scale fish kills attributable to the devastating impact of acid sulphate soils on northern rivers following floods. It was put that the number of fish and other organisms killed in each of these instances were estimated at being three to five times greater than the relevant commercial catch.¹³⁶

- 3.140** Mr Ben Birt, Marine Conservation Officer, Nature Conservation Council of NSW, suggested that the debate on the relative merits of marine parks may have served to generate more focus on the threat from land-based impacts:

Firstly, they clearly are issues and the Nature Conservation Council does see them as issues. Unfortunately our capacity is limited; we would like to work on everything but we cannot—nor can anyone. Potentially one of the positive things to have come out of marine parks and the marine parks debate that has occurred is that there has been more of a focus paid, or by necessity people are pointing more to these other issues. So perhaps that in itself will lead to further work either from conservation organisations, non-government organisations, or from government to address some. Clearly the Government is not doing nothing on it; there has been a lot of work over the years to address these issues but it is a very complicated process and you are talking about huge catchment areas.¹³⁷

- 3.141** Mr O'Connor told the Committee that I & I takes an ecosystems approach to fisheries management that comprises a number of elements and does not solely focus on protecting fish stocks from the impact of fishing:

The department recognises that in order to have good fish populations we need quality fish habitats and, as a result, the department seeks to protect existing habitats and, where possible, restore degraded habitats, for example, by constructing fish ways, or by promoting improved land-management practices in order to limit downstream impacts on aquatic habitats. The department also protects and seeks to restore aquatic species populations and communities that are listed as threatened; seeks to limit the spread of pest species; and seeks to conserve marine biodiversity through its involvement in the marine parks program. Together these elements comprise an ecosystems approach to fisheries management.¹³⁸

- 3.142** It is clear that land-based impacts pose a serious threat to marine biodiversity. Throughout the Inquiry the Committee's attention was drawn to instances where the devastating effects of these impacts had manifested. The Committee also heard evidence of the actions that have and are being taken to address environmental threats.

- 3.143** Throughout the Inquiry various land-based threats to marine biodiversity were raised with the Committee. A number of these are examined in the following sections.

Large scale fish kills – land management practices

- 3.144** As noted earlier the Committee's attention was repeatedly drawn to incidents of large scale fish kills that have been experienced primarily in the northern rivers of the State, and more

¹³⁶ Mr Byrnes, Evidence, 19 April 2010, p 50; see also Mr Turk, Evidence, 19 April 2010, p 51.

¹³⁷ Mr Birt, Evidence, 30 August 2010, p 8.

¹³⁸ Mr O'Connor, Evidence, 19 April 2010, p 2; see also Mr O'Connor, Evidence, 3 September 2010, p 14.

recently on the Murray-Darling system at Wakool. These fish kills are generally attributed to the presence of acid sulphate soils and agricultural land management practices. It was argued that the magnitude of these events was proof that the NSW Government needed to focus its attention on ensuring river and estuary health.

- 3.145** These fish kills can occur either after flood mitigation devices are lifted or after a major flood. Mr Graeme Turk, Managing Director, Sydney Fish Market, and Chair, New South Wales Seafood Industry Council, described the events that typically lead to such incidents:

The flood mitigation devices in the low lands on the northern rivers mean that when floods occur or high rainfall occurs water sits there and two things happen. One is that it sits and the vegetation degrades and so on. So you get the oxygen being taken out of the water. The second thing is that if it happens to be going through high acid sulphate soil, you get sulphuric acid. When those flood mitigation devices are lifted, that slug of deoxygenated and/or acid sulphate water moves down the river and kills everything. It comes from the fact that the flood mitigation devices are in place really rather than allowing the water to run into the rivers. I have photographs of the Richmond River. It has happened twice this decade where it was estimated that between three and five times the annual commercial catch was killed on each of those occasions. It is horrendous to look at the photos.¹³⁹

- 3.146** Mr John Burgess, Executive Officer, Australian National Sportfishing Association, argued that cane cultivation practices were the primary contributors to the deoxygenation of water leading to fish kills. Mr Burgess said that the marine areas of the provinces of central Queensland and the Coral Sea were in particular threat from agricultural plumes moving downriver.¹⁴⁰
- 3.147** NSW Government departments are strategically working with landholders to avoid downstream impacts of acid sulphate soil. Mr O'Connor said that while acid sulphate soil continues to pose a problem, progress is being made:

Acid sulphate soil continues to pose a problem in terms of management and what is the best possible long-term management practice to avoid some of downstream impacts. That continues to be the case. In recent years in the Richmond, there have been major flooding events. On each of those occasions, acid sulphate soil certainly has posed problems. We have had oxygen levels in the Richmond River getting down to virtually zero, with the result that they had mass fish kills. Acid sulphate soil problems there have certainly continued to result in red spot disease; there is no doubt about that. But we are strategically working with landholders and strategically making really good progress, albeit not as fast as we would like, in terms of improving the way that land is managed so that these impacts become less over time.¹⁴¹

Unexplained events

- 3.148** While the fish kills noted in the Northern Rivers can be attributed to deoxygenisation and acid sulphate soils, there are cases of fish kills where there is no discernible cause. Mr Brett Miners, Landscape Manager, Southern Rivers Catchment Management Authority, said he had

¹³⁹ Mr Graeme Turk, Managing Director, Sydney Fish Market, and Chair, New South Wales Seafood Industry Council, Evidence, 19 April 2010, p 51.

¹⁴⁰ Mr John Burgess, Executive Officer, Australian National Sportfishing Association, Evidence, 19 April 2010, pp 64-65.

¹⁴¹ Mr O'Connor, Evidence, 19 April 2010, p 34.

witnessed an enormous fish kill in the pristine Nadgee Nature Reserve which he described as being within a virtually un-impacted catchment.¹⁴²

- 3.149** Mr Anderson told the Committee the Clarence River prawn season failed this year and that there was no identifiable reason for the failure, particularly as early indications were that it would be a bumper season:

We had floods in May last year and the school prawn season started off well and we looked like we were going to have a bumper season. Then we got a fresh in November. We were concerned about what we were going to do with all the prawns we would get when the river opened in December, but whatever happened with that fresh that came down the river, basically the stocks just left the river and when they came back the size was very small. They just would not grow this year.¹⁴³

- 3.150** Subsequent to that, once it was evident that the season had failed, the Co-operative in conjunction with the Professional Fishermen's Association undertook studies of water, sediment and prawn samples, but no cause was identified. Mr Anderson said that it appeared that testing of the water during the November 'fresh' may have indicated the cause, however at that time there was no inkling that there should be concern.

Pollution

- 3.151** Incidents such as major fish kills are dramatic and graphic examples of the threat posed by land-based impacts. However, other land-based impacts can pose a similar if not greater threat although their impact is not immediately recognizable. Ms Howard, was one who highlighted this to the Committee:

It is easy to recognise when fish come up belly up as a result of acid sulfate run-off. But it is not easy to identify when spawn do or do not survive because of chemical contamination. Those areas of research into environmental impacts are lagging. Over the past 12 or 18 months there has been significant environmental damage to fish stocks right across the coast. I do not believe it is hard to identify the environmental degradation that is there. What is hard to identify is the impact on zooplankton, or the impact on larvae. We do not know those figures.¹⁴⁴

- 3.152** Professor Kearney told the Committee that evidence was emerging of the impact of pollution on fish larvae malformation and endocrine disruption.¹⁴⁵ Professor Kearney tendered and extract from Dr B K Diggles entitled *Pollutant effects on biodiversity and recruitment of aquatic animals*, which said that a broad suite of anthropogenic pollutants (pesticides, herbicides, heavy metals, xenoestrogens in sewage, nutrients, sedimentation, acidification) cause abnormal development and death of larvae of fish, shellfish and other aquatic animals at concentrations

¹⁴² Mr Brett Miners, Landscape Manager, Southern Rivers Catchment Management Authority, Evidence, 26 May 2010, p 84.

¹⁴³ Mr Anderson, Evidence, 15 June 2010, p 39.

¹⁴⁴ Ms Howard, Evidence, 19 April 2010, p 50.

¹⁴⁵ Professor Kearney, Evidence, 3 September 2010, p 34.

3.153 that are regularly found in our coastal environment. Adverse effects of these pollutants on nursery habitat (for example, loss of seagrass) and food (zooplankton, biogenic reef) availability in inshore waters is likely to significantly reduce survival and recruitment of aquatic animals as well as limit the carrying capacity of the environment.¹⁴⁶

3.154 Professor Kearney also noted that poor water quality due to pollution and contamination can cause 'sub-lethal' effects which again are not easily recognisable:

One of the things that is difficult for people to comprehend is you do not see sick fish very often. You do not have to be very sick if you are a fish for your mates to decide that you are food. If you swim a bit slowly you are not going to survive very long. So we do not see these sublethal, as I call them, but they wind up being lethal, mortalities, in these estuaries. I really do think that is a big part of the problem.¹⁴⁷

3.155 In evidence, Mr Kelvin Wynn, commercial fisher, related an example of when the impact of industrial pollution discharge is evident. Mr Wynn said that in the past commercial fishers could tell whenever a local power plant would put chlorine through to clean its tubes – as it would be impossible to catch a fish for a month in the vicinity of the plant's water discharge.¹⁴⁸

Habitat destruction

3.156 The Committee's attention was often drawn to the remarkable reproductive resilience of fish populations to bounce back after either dramatic fish kills or to withstand intense harvesting.¹⁴⁹

3.157 However, when habitat, upon which a fish population depends, is destroyed the time taken for recovery of the habitat and the subsequent return of the reliant species is much longer. Mrs Kathleen Cheers, in evidence, related an example of this relationship, where one act of habitat destruction would have consequences for years to come:

We have an example at the moment in Wallis Lake where our greasyback prawn population is gone in the southern end of Wallis Lake. A greasyback prawn lives, breeds and eats in a lake system; it does not go out to sea to spawn. It lives there and it lives and breathes on the weed bed. ... We cannot catch greasyback prawns anymore. You might catch 20 kilos or whatever but the population is gone because we have had a certain person dig canals in a bay. That happened overnight; I do not know how it happened but it just happened. The consequence of that is that we now have lost our greasyback prawn population and it is not going to come back until that weed returns, which will probably be seven years, so that is another form of income lost to us.¹⁵⁰

¹⁴⁶ Tabled document, Professor Robert Kearney, Emeritus Professor, University of NSW, 3 September 2010, *Pollutant effects on biodiversity and recruitment of aquatic animals*, Dr B K Diggles, p 1.

¹⁴⁷ Professor Kearney, Evidence, 27 April 2010, p 18.

¹⁴⁸ Mr Kelvin Wynn, commercial fisher, Evidence, 4 May 2010, p 60.

¹⁴⁹ For example: Mr Peter Hughes, Evidence, 4 May 2010, p 71; see also Mr Wynn, p 60.

¹⁵⁰ Mrs Kathleen Cheers, Evidence, 4 May 2010, p 50.

Coastal development

- 3.158** Inappropriate coastal urban development poses a serious threat to marine ecosystems. Mr Burgess noted that this harm generally cannot be corrected:

In terms of broad commercial development on our coastline as a State we have done some terrible harm to ourselves in allowing some of the commercial development on our coastal beaches and estuaries. Make no mistake about that. Unfortunately the harm has been done and we cannot correct it. The price we are paying for that now is areas where there are huge beach sand losses, inundation, and closure of some lakes on the South Coast.¹⁵¹

- 3.159** Professor Kearney also noted that this harm will only be exacerbated by predicted ocean warming and sea-level rises. He said that the effect of having so many concrete and other abutments against our waterways is that current wetlands will likely be inundated without adequate areas to establish new ones. Professor Kearney applauded the work being done by government departments to date. He noted that the problem of not having adequate areas to establish new wetlands will be most evident in the Sydney area.¹⁵²

- 3.160** Mr Max Haste, Manager, Port Stephens Great Lakes Marine Park, said that managing development at the foreshore interface was extremely important to the viability of the marine park:

There is a foreshore management plan for Port Stephens that looks to address local issues associated with development on the foreshore, which is probably the biggest interface between the public and us as marine park managers. We hear a lot about recreational fishing but actually a lot of our issues are at that foreshore interface.¹⁵³

Siltation and sedimentation

- 3.161** Sedimentation is a major problem which poses a threat on native fish stocks in our inland rivers. Mr David Screen, President Lakeside Fly Fishing Club, related examples of where weed infestation can cause increased siltation and stagnant pools in otherwise healthy, oxygenated free-flowing rivers:

But where there is a lot of weed infestation like willow trees and blackberry and the like that choke the river stream it slows down the water and the siltation builds up and they could form large pools that can become stagnant. You can actually smell sometimes the water quality. It is just not right and it has algae and all sorts of slime and muck and it does not look nice. That part of the Murrumbidgee River particularly, even when it is flowing and there is water coming out through it, there are large big pools that just seem to sit there and they do not look nice at all.¹⁵⁴

- 3.162** Mr Karl Schaerf, Honorary Secretary of the Central Acclimatisation Society, said that many of the naturally occurring holes in the rivers of the tablelands have now filled up with silt.

¹⁵¹ Mr Burgess, Evidence, 19 April 2010, p 64.

¹⁵² Professor Kearney, Evidence, 27 April 2010, p 16.

¹⁵³ Mr Max Haste, Manager, Port Stephens Great Lakes Marine Park, Evidence, 4 May 2010, p 36.

¹⁵⁴ Mr David Screen, President Lakeside Fly Fishing Club, Evidence, 19 April 2010, pp 75-76.

Mr Schaerf said that to a large extent these holes which historically served as reservoirs for native fish during drought periods have now been lost.¹⁵⁵

- 3.163** Much of the sedimentation problems faced by our rivers are the result of erosion caused by inappropriate land practices in the eighteenth century. Unfortunately, the effects will continue for quite some time:

It is important to realise with sedimentation issues, from what we can see erosion peaked in about the 1890s, on the tablelands country and on the coast. So we are still dealing with the problem that was commenced almost 180 years ago. So you have that really big lag time.

For example, we know from work on the Tuross that there are some really quite major sediment slopes working their way through the floodplain reach. While the catchment conditions may have been on the improve, and certainly all our photo analysis from about 1949 shows improving catchment condition, we know that the floodplain reach is continuing to go down because those old sand slugs might take another 20, 50 or 100 years to work their way through.¹⁵⁶

Environmental flows to rivers

- 3.164** Disruption to natural river flows through the construction of dams and other barriers has an effect on river health and biodiversity. The call for more water to be released to rivers through 'environmental flows' is generally understood. However, if undertaken inappropriately environmental flows themselves can pose a threat to native fish stocks.

- 3.165** Typically when water is released from a dam it is drawn from near the bottom of the impoundment which is colder than the surface water. The effect of this is termed coldwater pollution. Native fish generally require water to be of a certain temperature in order to spawn, and coldwater pollution can result in the displacement of these fish. Mr Schaerf described this effect:

If you understand the coldwater releases below these major impoundments you would be aware that we have created coldwater pollution which has had a severe impact on our native fishes, in particular, where these dams are constructed on the verge of the tablelands as you go down to the slopes—Burrendong and Wyangala are classic examples. They have driven our native fishes further downstream and affected the conditions that they require to spawn with the higher water temperatures, generally, 20 degrees Celsius or higher.¹⁵⁷

- 3.166** Mr Westaway acknowledged that coldwater releases from a dam can mean that hundreds of kilometers of river can become unviable for cod spawning. It was noted that coldwater pollution is not a problem easily overcome due to the infrastructure costs associated with implementing changes to dam structures to raise the off-takes.¹⁵⁸

¹⁵⁵ Mr Karl Schaerf, Honorary Secretary of the Central Acclimatisation Society, Evidence, 27 April 2010, p 23.

¹⁵⁶ Mr Miners, Evidence, 26 May 2010, p 85.

¹⁵⁷ Mr Schaerf, Evidence, 27 April 2010, p 24.

¹⁵⁸ Mr Westaway, Evidence, 27 May 2010, p 78.

- 3.167** In addition, badly timed environmental flows can pose a threat. The Committee heard that in terms of not having a negative impact on native fish populations it was best for environmental flows or water releases to mimic normal weather patterns:

On the Murray system, the bigger flows generally came at the end of winter when you had rainfall on the alps and the snow melted, so October. The Darling system tended to have, as it does now, more summer flows from Queensland events basically, but the regulation primarily is in the south in terms of the big water storages, so springtime is the best environmental period for environmental flows.¹⁵⁹

- 3.168** Mr Westaway told the Committee he was aware of two occasions – in the Wakool and the Darling systems – where badly timed environmental flows have resulted in fish kills:

...especially if they are low flows in high summer, and the water authorities are particularly aware of this. There have been a number of fish kills that have resulted. The water authorities are trying to provide water for stock and domestic purposes to people who are desperate as well as to provide environmental water. If you get that wrong, yes, it can result in fish kill and there have been two occasions where that has occurred in the Wakool system and in the Darling system, and certainly our habitat people and scientists work very closely now with the water people to address those issues.¹⁶⁰

Committee comment

- 3.169** The Committee agrees that land-based impacts are a real threat and need to be managed and addressed in order to adequately protect marine biodiversity. There was a view among some inquiry participants that the NSW Government was relying solely on marine parks as the means to ensure the sustainability of fish stocks. The Committee received evidence during the inquiry that demonstrates this is not the case.
- 3.170** The preceding sections examined the threats to marine biodiversity that were commonly raised through the inquiry; the sections that follow touch on some of the examples of how land-based impacts are being addressed.

Addressing land-based impacts

- 3.171** The management of marine parks is the responsibility of the Department of Environment, Climate Change and Water (DECCW), while the regulation and management of fisheries is the responsibility of I & I. However, a range of government departments and authorities are involved in activities that relate to habitat restoration and land-based activities that have an impact on fisheries.
- 3.172** Mr Michael Wright, Director, Protected Areas Policy and Programs, Department of Environment, Climate Change and Water outlined a number of government departments and initiatives that address adverse impacts on the marine environment:

The Government also has made progress with complementary programs that address impacts on the marine environment. These programs include some of the fisheries

¹⁵⁹ Mr Westaway, Evidence, 27 May 2010, p 76.

¹⁶⁰ Mr Westaway, Evidence, 27 May 2010, p 76.

programs that Paul O'Connor already has spoken about. In addition, New South Wales catchment management authorities will have invested more than \$600 million over the past four years to better manage our natural resources, including estuarine and marine environments. A further example is the \$1.1 billion spent under the Government's country towns water supply and sewerage program, which is delivering improved environment outcomes through sewerage upgrades and will continue through until 2016-17.¹⁶¹

- 3.173** Mr Wright further noted that in addition to working individually there was a collaborative effort between agencies in addressing environmental threats:

So we are certainly working collaboratively with catchment management authorities and with the Department of Industry and Investment on some of these issues. Acid sulphate soil is a big issue. We have got a program which has us collaborating with the Great Lakes Shire Council to acquire lands which are a risk in terms of acid sulphate soil, for inclusion of those lands in the reserve system. We are also working with that council to rehabilitate lands that have channelized and which, as a consequence, produce acid sulphate run-off into the adjacent marine environment. So I think Government and these agencies are very cognisant of the risks posed by those sorts of land-based impacts on the marine environment and there is a series of quite comprehensive programs in place to attempt to address those risks, and they are complementary to the marine protected area and fisheries management programs the Government is running.¹⁶²

Habitat restoration

- 3.174** Of those inquiry participants who were positive about the work being done by various government agencies, the most frequently cited area was that of habitat improvement¹⁶³ or restoration. RecFish Australia placed NSW as among the best in the nation for pursuing fish habitat regeneration:

We would also like to point out some of the big positives that have emerged out of New South Wales. One of these is the ongoing commitment to improved angler access and the other is a very good program focused on habitat restoration. Perhaps it is the shining example out of the whole of Australia about what can be done when money is put into habitat restoration.¹⁶⁴

- 3.175** Mr O'Connor said that I & I recognised that if you did not have good habitat you do not have good fish populations. Opportunities to restore what were historically very important fish habitat areas are regarded by the department as significant.¹⁶⁵

- 3.176** The Committee sought information on the progress on two major habitat restoration programs – the Yarrahapinni wetlands and the Hexham swamp. The Yarrahapinni wetlands near South West Rocks in northern NSW, is described in the case study below.

¹⁶¹ Mr Michael Wright, Director, Protected Areas Policy and Programs, Department of Environment, Climate Change and Water, Evidence, 19 April 2010, p 3.

¹⁶² Mr O'Connor, Evidence, 3 September 2010, p 14.

¹⁶³ Mr Screen, Evidence, 19 April 2010, p 75.

¹⁶⁴ Mr Olyott, Evidence, 19 April 2010, p 38.

¹⁶⁵ Mr O'Connor, Evidence, 19 April 2010, p 24.

Case study 1 – Yarrahapinni wetlands¹⁶⁶

In the early 1970s, flood mitigation structures were installed at Yarrahapinni wetlands. The wetlands until that time have been an extensive and highly productive estuarine ecosystem, including 370 hectares of saltmarsh and 110 hectares of mangroves. The flood mitigation works altered natural processes by preventing saltwater entering the wetlands via the Macleay River, and floodwaters to fully drain.

As a result, estuarine vegetation communities were replaced by degraded freshwater and saline wetland communities. In 1997 only one hectare of saltmarsh and 0.1 hectare of mangroves remained. Drainage works also contributed to oxidation of acid sulfate soils, to further habitat loss, water quality decline and in turn significant impacts on local aquatic biodiversity including fish.

In 2007, Yarrahapinni Wetlands National Park was established to facilitate restoration of the wetlands to a more natural state reminiscent of the site prior to the flood mitigation works. In the long term, benefits will be significant as water quality will improve and estuarine habitats will be reinstated. The removal of the floodgates and levee wall will improve access for fish species and will improve the overall water quality of the lower Macleay Estuary. It is expected that fish populations will return to the wetlands as a breeding and nursery grounds.

Rehabilitation of the Yarrahapinni Wetlands as an ecologically functional estuarine ecosystem is progressing in stages to ensure positive environmental outcomes for all stakeholders. It is envisaged once the controlled re-inundation is complete and monitoring has established a positive ecological outcome, the floodgate infrastructure and earth levee will be modified or removed to facilitate the natural flow regimes.

In 2007 two tidal flaps were installed enabling restricted tidal flows into the lower reaches of the estuary. In February 2010 one of the five floodgates was opened enabling tidal flows to penetrate further into the wetland. As part of the adaptive management approach water levels and quality have been monitored for the past 18 months, and a significant fisheries research program is in place. The impact of this partial inundation has had a positive improvement in ecosystem function in the estuary. Fish and invertebrate species are quickly returning to the estuary with a noticeable increase in species diversity and numbers. An increase in bird species feeding in the wetland has also been observed.

I & is a significant partner and contributor to the rehabilitation project. The whole of the Yarrahapinni Wetlands National Park has been protected from recreational fishing under Schedule 2 of the Fisheries Management (General) Regulation 2002 to support the rehabilitation efforts.

3.177 Efforts to restore areas of the Hexham swamp in the Hunter Valley by the Hunter-Central Rivers Catchment Management Authority are described in the next case study.

¹⁶⁶ Answers to questions taken on notice during evidence, Mr Michael Wright, Director, Protected Areas Policy and Programs, Department of Environment, Climate Change and Water, 19 April 2010, Question 4, pp 2-3

Case study 2 – Hexham swamp rehabilitation¹⁶⁷

The Hunter-Central Rivers Catchment Management Authority is actively restoring approximately 2000 hectares of Hexham Swamp in the Hunter River estuary. In 2008 Hexham Swamp became part of the Hunter Wetlands National Park.

Floodgates installed on Ironbark Creek in the 1970's have significantly reduced tidal inundation within the Creek and its tributaries and have resulted in a decline in estuarine wetland habitats throughout Hexham Swamp.

Approval was granted in 2008 to open floodgates on Ironbark Creek in a staged manner to gradually reintroduce tidal waters into the Creek and low lying areas of Hexham Swamp. The first floodgate was opened in December 2008 and favourable results from monitoring of water quality, insects, and inundation of surrounding areas, led to the approval in December 2009 for the opening of two more floodgates.

Currently, with three gates partially open (equivalent to 2 gates fully open), early monitoring results indicate that water levels and quality, tidal ranges and changes in vegetation are significant and consistent with predictions. Substantial areas of the Swamp are being inundated with saline tidal waters, mainly into areas vegetated with *Phragmites* (a common swamp reed that is known to have a limited tolerance for saline waters and is expected to start to die off within one to two years).

Further adjustments to the floodgates will be considered once the environmental effects of the current stage (with three floodgates partially open) have been clearly demonstrated. The environmental response of the Swamp should be assessed and reconsidered after the 2010-2011 summer period at which time a decision can be made regarding progression to the next stage of the project. The adaptive management approach means that the timing and eventual re-opening of all eight floodgates is dependant of flooding and habitat response.

- 3.178** While DECCW advised that monitoring of the reinundation program in Hexham swamp is continuing, Mr Leslie Cheers, commercial fisher, told the Committee that he had noted immediate improvements which he attributed to the project:

That actually was one of the best seasons. The minute they opened those floodgates, the next seasons was one of the biggest ever in the Hunter River for the school prawns. We believe it had a lot to do with reopening all that habitat. They found little spawn up in the long grass before the grass died as soon as they did that. The habitat is very important.¹⁶⁸

- 3.179** Currently 40 per cent of the NSW coastline is adjacent to terrestrial national parks or nature reserves, which provide significant catchment protection benefits. Mr Ashley Love, President, Coffs Harbour-Bellingen Branch, National Parks Association said he believed that coastal wetland communities were under-represented within national parks and nature reserves. Mr Love said that on the North Coast alone there was about 100,000 hectares of wetland that should be purchased and restored:

In my work with National Parks I did an assessment of the amount of wetland that should be acquired on the North Coast of New South Wales and restored as wetland

¹⁶⁷ Answers to questions taken on notice during evidence, Mr Michael Wright, Director, Protected Areas Policy and Programs, Department of Environment, Climate Change and Water, 3 September 2010, Question 2, pp 1-2.

¹⁶⁸ Mr Cheers, Evidence, 4 May 2010, p 50.

habitat and we came up with about 100,000 hectares of what we call priority one, 50,000 hectares of priority two. That is 150,000 hectares, in my view, that should all be acquired over time, if possible. There are many willing sellers out there. How many years do you do it over? If you did over 30 years, that is 5,000 hectares a year. We were buying at about 300. You mentioned possibly going to 3,000. That was pretty much on the money, from my point of view, and I strongly support it.¹⁶⁹

Sewage treatment improvements

- 3.180** Sewage treatment improvements are occurring in coastal and regional NSW. Since the Country Towns Water Supply and Sewerage Program commenced, a total of \$427 million has been provided to local councils to improve sewerage systems or provide sewerage to unsewered coastal areas.
- 3.181** Sewage treatment plant upgrades on the North Coast including those at Coffs Harbour/Woolgoolga/Moonee in 2009 are associated with pollution reduction programs costing approximately \$150 million and have enabled Coffs Harbour City Council to eliminate discharges at two coastal lagoons, to increase reuse of higher quality effluent, and to undertake deep sea release of higher quality effluent.
- 3.182** Further, the Shoalhaven Reclaimed Water Management Scheme involved the \$48 million upgrade of four municipal sewage treatment plants located at St Georges Basin, Vincentia, Callala and Culburra and construction of a common distribution network to allow for the beneficial reuse of treated effluent for irrigation by a number of farmers located on the lower Shoalhaven River floodplain. This has significantly decreased the volume of treated effluent being directly discharged into Jervis Bay Marine Park.¹⁷⁰

Improving river health

- 3.183** Catchment Management Authorities (CMAs) play an important role in maintaining and restoring river health. The Committee received evidence from representatives from both the Southern Rivers and the Northern Rivers Catchment Management Authorities. Both of these CMAs, among other things, work with local landholders to reduce their impact on river health.
- 3.184** Mr Miners said that his organisation has had a very strong focus over the last six years on river and estuary management. Mr Miners said the CMA was seeking to establish strong working partnerships with the recreational fishing sector. The CMA prioritised its funding and activities to achieve a balance of both maintaining good quality river resources and addressing the needs of impacted river habitat:

In essence we have prioritised those rivers and estuaries that are in very good condition, and the Clyde has been a classic one, where a relatively modest amount of investment should keep it in good condition for a long time. Something like the Tuross is what we would call a working river, and a similar one is the Bega River, where there is a lot of dairy industry and other reasonably intensive industry on it. So our goal is to at least maintain and slightly improve the ecological values of that so it is

¹⁶⁹ Mr Love, Evidence, 3 September 2010, p70

¹⁷⁰ Answers to questions taken on notice during evidence, Mr Wright, Director, 3 September 2010, 3 September 2010, Question 5, p 4.

maintained in its working capacity. We try to get a reasonably good balance in our investment between looking after the really good-quality assets where we can do modest amounts but at the same time trying to make sure our working rivers and estuaries are maintained at least at the current level and hopefully will improve over time.¹⁷¹

3.185 Mr Peter Corlis, Catchment Coordinator, Northern Rivers Catchment Management Authority, outlined the Northern Rivers CMA approach to river health management:

From a river health perspective, the authority undertakes planning and community engagement in the form of river health plans that deal with channel structure, riparian vegetation, weed control, stock management, fish passage, environmental flows and environmental monitoring.

I have some local examples of channel rehabilitation works on the Orara River. The structures stabilise the channel for riverbed and bank stability and also form aquatic habitat for organisms such as fish. With regard to riparian vegetation, we deal with replanting and weed control. I have a couple of examples of cat's claw creeper control and revegetation. There is also a picture of camphor laurel control and dead spars in the remnant vegetation.

From a stock management perspective, we try to coordinate stock access to streams by fencing and we also provide alternative off-stream water for stock to minimise the access and need for stock to impact on streams. From a structural perspective, we undertake riverbed and bank erosion control works. The riverbed works also function as a fish ladder or aquatic connection within the channel. We work in partnership with Fisheries and Agriculture NSW to ensure that aquatic connectivity is maintained. From an ecosystem monitoring perspective, we try to identify the resource condition changes related to our activities. We identify indicators that help us to focus our investment, to improve our communication with the community and to improve monitoring and reporting on rivers and estuaries. We are engaged in a pilot program within the Bellingen-Kalang catchment with the Bellingen Shire Council.

Over the past couple of years we have been undertaking a major monitoring program—the Clarence River Fish Track project. That is designed to determine the impact of flows and barriers on seasonal fish movements and breeding to improve the understanding of flow requirements for different fish species. There is a similar program underway in the Shoalhaven to broaden the project outcomes. Most importantly, this project will provide information on environmental flow requirements for rivers and help to protect and link in with coastal water supply schemes.¹⁷²

3.186 Work by the Northern Rivers CMA relevant to aquatic health include:

- 1,170 hectares of riparian rehabilitation
- 229 alternative stock watering points installed
- 790 hectares of coastal weed control
- 33 hectares of coastal wetland enhanced

¹⁷¹ Mr Miners, Evidence, 26 May 2010, p 81.

¹⁷² Mr Peter Corlis, Catchment Coordinator, Northern Rivers Catchment Management Authority, Evidence, 15 June 2010, p 28.

- 316 hectares of coastal revegetation
- removal of over 43 aquatic barriers
- over 13,400 hectares of marine habitat mapped
- 161 commercial fishers have been engaged to implement best practice fishing gear.¹⁷³

3.187 Mr Harrison said that projects that engaged local landholders to minimise their impact on rivers had shown good results:

Yes, there are a number of them. A couple spring to mind immediately. One is called Little Broadwater, which is about 30 kilometres downstream from here near a little town called Lawrence, where landholders agreed to lock up 170 hectares and fence it off from cattle. They made some floodgate changes to allow tidal exchange and the results have been outstanding, no question about it.

...It was run by the Clarence Valley Council, the catchment management authority, WetlandCare Australia, Fisheries, and the landholders obviously. I declare a conflict of interest because my father is one of the landholders. That is how I know about the case. It was a joint effort, funded in part through the NSW Recreational Trust, and I think some Federal money was put in at some stage as well, but I am not certain. There is Shallow Channel near Yamba where they put in culverts to allow water exchange, which was completed last year at a cost of \$450,000 to \$500,000.¹⁷⁴

3.188 Mr Harrison said that such projects should be replicated. When the Northern Rivers CMA advertised incentive programs for local farmers to restrict stock access to river banks, Mr Corlis indicated that the project received significant interest and that demand exceeded available funding by some ten-fold.¹⁷⁵

3.189 It is open to CMAs to seek funds from the Recreational Fishing Trusts. Mr Corlis told the Committee that the Clarence River Fish Track project was the recipient of Trust fund monies. On the other hand, Mr Haste advised that his CMA had provided funds towards two projects within the Marine Park – seagrass-friendly moorings and black cod surveys.¹⁷⁶

3.190 It was suggested to the Committee that more funding should be provided to encourage landholders to reduce their impact on river environments. Mr Harrison said that he had long advocated a process whereby landholders who own marginal country, by which he meant wetlands, are remunerated to grow fish rather than grass to feed one or two head of cattle.¹⁷⁷ Mr Harrison said that this would not happen without additional funding.

3.191 Appendix 1 of the NSW Government submission outlines the various platforms for the NSW Recreational Fishing Trusts. One of the platforms is 'Aquatic habitat protection and rehabilitation'. There are three items within this platform – two of which fund staff positions.

¹⁷³ Mr Corlis, Evidence, 15 June 2010, pp 29-30; see also Answers to questions taken on notice during evidence, 15 June 2010, Mr Ian Simpson, Acting General Manager, Northern Rivers Catchment Management Authority, Questions 1 & 2, p 1.

¹⁷⁴ Mr Harrison, Evidence, 15 June 2010, p 13.

¹⁷⁵ Mr Corlis, Evidence, 15 June 2010, p 34.

¹⁷⁶ Mr Haste, Evidence, 4 May 2010, pp 35-36.

¹⁷⁷ Mr Harrison, Evidence, 15 June 2010, p 11; see also Mr Thurlow, Evidence, 15 June 2010, p 77.

The third item is the Habitat Action Program 'Making more fish naturally' involves development of a series of on-grounds works programs to improve habitat rehabilitation and fish stocks in consultation with the CMAs.¹⁷⁸ Both the Saltwater and the Freshwater Trust each have an annual allocation of \$200K (the Saltwater Trust allocation increased to \$500K for the 2009/10 year only).

- 3.192** Mr Turnell advised the Committee that while these amounts might appear small when compared to other funding platforms, they are often used to leverage additional funding:

With respect to the funding that is allocated out of the recreational trusts towards conservation management measures, a lot of that funding, whilst being a smaller amount that might be allocated to fishing enhancement, is able to be used to leverage off additional funding from other providers. There is a significant amount spent on conservation-based work that is driven by the initial allocations out of the recreational trusts. It is a little more difficult for us to leverage funding for the deployment of artificial reefs and development of artificial reefs. It is difficult for us to leverage funding off other providers because it is specifically for one group of beneficiaries, which are recreational fishers.¹⁷⁹

Committee comment

- 3.193** It was frequently stated throughout the Inquiry that good fish populations depend on good quality water and good fish habitat. A significantly greater proportion of the \$13 million is required to represent the relative importance of habitat rehabilitation in terms of benefit to recreational fishing.

Recommendation 3

That the Recreational Fishing Trust Funds provide a greater allocation of available funds to rehabilitation and restoration of aquatic habitat and establish formal Memoranda of Understanding and funding arrangements with relevant Catchment Management Authorities to undertake inland river, estuary and coastal pollution reduction programs.

Habitat Action Plan

- 3.194** The NSW Government submission said that it was using targeted programs to restore aquatic habitat. It noted that the development of the NSW Habitat Action Plan would be the first step in delivering a coordinated response to restoring habitats crucial to fisheries production:

The NSW Government is involved in restoring degraded habitats using targeted programs as a means of improving productivity and conservation outcomes for native fish including:

- Delivering improvements to fish passage at over 200 sites providing access to more than 2,000 kilometres of riverine habitat
- Returning in excess of 5,000 large woody habitats (or snags) to NSW rivers

¹⁷⁸ Submission 1007, Appendix 1, p 6.

¹⁷⁹ Mr Turnell, Evidence, 19 April 2010, p 21.

- Modifying the operation of almost 100 tidal floodgates

The development of the NSW Habitat Action Plan is a first step in delivering a coordinated response targeting habitats that are crucial to fisheries production. The Plan is anticipated to be released in 2010.¹⁸⁰

3.195 At a hearing on 3 September the Committee sought information from the NSW Government on the release and scope of the Habitat Action Plan. The Committee was subsequently advised that the Plan is expected to be completed by June 2011.¹⁸¹

3.196 In evidence, Mr O'Connor indicated that at the early stage the plan would primarily have a Fisheries focus, and not encompass the work of other agencies, but that eventually it could be used to develop a broader plan:

I have not yet seen a draft of it. Our staff are working on a habitat plan for New South Wales. What it is trying to do is pull together the various aspects of what we are doing and to give an indication of priorities for the future.

In essence, at this stage it is largely a Fisheries focus. We do not envisage at this stage that it will encompass the work of all other agencies. However, it will recognise the work that we are doing in conjunction with CMAs and so forth. It will be fairly broad in its scope. As I said, it is early days. We had a target date of trying to get it completed this year, but that may not happen.

I understand the point. Rome was not built in a day and we need to take important steps. We are pulling together the various aspects of what we are trying to do in our agency and then we can use that as a springboard to develop a broader plan.¹⁸²

Committee comment

3.197 The Committee is concerned at the prospect that the Habitat Action Plan would have a single department focus, particularly given the number of agencies and authorities involved in the restoration of habitat. The Committee agrees that a coordinated response targeting habitats crucial to fisheries production is essential.

3.198 As indicated earlier, there is an apparent lack of awareness of the breadth of work being undertaken to address protection of fish habitat from land-based impacts. This is primarily because the information is not presented in a cohesive manner. The Committee believes that a coordinated Plan setting out the various actions being undertaken by many government agencies to address issues that threaten the sustainability of marine biodiversity, including fish stocks, that could then be scrutinised by the public would be of immense benefit.

¹⁸⁰ Submission 1007, p 18.

¹⁸¹ Answers to questions taken on notice during evidence, Mr van der Walt, 3 September 2010, Question 8, p 5.

¹⁸² Mr O'Connor, Evidence, 3 September 2010, p 15.

Recommendation 4

That the NSW Government prepare and publish a Plan which sets out the current and proposed actions across government that will be taken to address the threats to marine biodiversity, including fish stocks.

Chapter 4 Marine Protected Areas

There are a number of legislative methods for protecting fish stocks and the marine environment on either a temporal or spatial basis, which primarily control extraction of organisms through the constraint or prohibition of fishing and collecting.

For the overwhelming majority of participants, marine parks in NSW were the main focus of their contribution to this inquiry, and for many it was the sole subject of their submission. The Inquiry received many submissions which simply called for either an increase in marine parks or conversely for a cessation of their establishment. The basis for either call was generally centred on the ability of marine parks to provide an effective means of protecting fish stocks and marine biodiversity, and in this regard two quite distinct views were put before the Committee.

How marine areas and fish stocks can be protected from over-fishing and collecting

- 4.1** Both the commercial and recreational fishing sectors are subject to regulation that controls their level of extraction and impact on fish stocks and habitat areas. For the recreational sector this control is exercised through the setting of bag and size limits which apply throughout the State (discussed in Chapters 3 and 7 and through fishing gear restrictions (discussed in Chapter 7). The increasing use of catch and release by recreational fishing organisations is discussed in Chapter 7. Commercial fishing is examined in Chapter 11.
- 4.2** In addition to these controls, fishing and collecting is regulated on a temporal (time) or spatial (area) basis by a range of means.

Emergency closures

- 4.3** Emergency closures of a specified area can be required to deal with unforeseen events. Such closures are often instigated as much for the protection of the public as for the protection of the area.
- 4.4** Mr Peter Turnell, Director, Fisheries Resource Management, Industry & Investment NSW (I & I), explained that when emergency closures are implemented they are advertised. However, in acknowledgement that some people are likely to be unaware of new restrictions, sensible discretionary powers are applied by compliance officers:

Fishing closures need to be gazetted if they are happening as part of normal process. There are special arrangements if there are emergency closures, and they might be needed for pollution or natural events that are not foreseen. There is a process of consultation with local affected groups. We generally know who they are with respect to commercial operators and aquaculture operators; it is a little more difficult with recreational fishers, but there are certain requirements to advertise so that the establishment of a fishing closure is well known.

We also advise any of the relevant advisory groups and also through the Fisheries officers, who provide community input. If there is an emergency closure we will often

... speak with the compliance people about having sensible discretionary powers applied to them so that we are not necessarily tripping up people who maybe otherwise unaware of fishing restrictions. That is generally the process.¹⁸³

- 4.5 According to Mr Peter Hemmings, Member, Hat Head Bowling and Recreational Amateur Fishing Club, such periodic closures are generally embraced by the recreational fishing sector because there is obvious evidence that restrictions on fishing are required.¹⁸⁴

Seasonal closures

- 4.6 Some species of fish are protected from fishing on a seasonal basis, during important periods in their reproductive cycle. For example a closed season from 1 June to 31 August applies each year to Australian Bass and Estuary Perch in rivers and streams.
- 4.7 Throughout the Inquiry many participants from the recreational sector, who were critics of the utility of sanctuary zones, argued that seasonal closures for specific fish species would provide better protection. Fishing journalist, Mr Al McGlashan said that seasonal closures would be embraced by the recreational fishing sector:

Seasonal closures. That is the big one, I think. Western Australia have done it quite effectively in Cockburn Sound for the snapper. I use snapper because that is just an easy one. Learn when they are spawning, and I can guarantee there will be barely a fisherman that will not support a month's closure. South Australia is doing it really well. They lock down part of the area for, I think, three weeks in November and then you can fish again. Give the fish a chance to breed. To me, that is a proper sanctuary zone as opposed to locking up a chunk and going, "Yes, that's it—fixed."¹⁸⁵

- 4.8 It should be noted that some marine parks already implement seasonal closures as part of their marine park management plan.
- 4.9 A number of inquiry participants argued that temporary closures should be implemented to protect all spawning aggregations of fish from all forms of fishing. The Committee was advised that such action was feasible, but in the end decisions are made on the basis of practicality and need:

Generically we do that on species where we think it is necessary. For argument sake, we have closures that relate to lobsters in order to protect spawning stocks. We also have closures that relate to prawns to protect spawning stocks. So the answer is broadly yes, but whether we apply it to individual species will depend on the circumstances of those species. For instance, some species aggregate into particular areas to spawn, in which case it becomes sensible and possible to do what you are suggesting. In other cases, the species will breed right throughout New South Wales so it is not sensible or possible to do what is suggested.¹⁸⁶

¹⁸³ Mr Peter Turnell, Director, Fisheries Resource Management, Industry & Investment NSW, Evidence, 19 April 2010, pp 19-20.

¹⁸⁴ Mr Peter Hemmings, Member, Hat Head Bowling and Recreational Amateur Fishing Club, Evidence, 5 May 2010, p 12.

¹⁸⁵ Mr Al McGlashan, Fishing Journalist, Evidence, 27 April 2010, p 62.

¹⁸⁶ Mr Paul O'Connor, Principal Director, Fisheries and Compliance, Industry & Investment NSW, Evidence, 19 April 2010, p 28.

- 4.10** Professor Robert Kearney, Emeritus Professor, University of Canberra, has argued that the world has many well-managed fisheries that are based on exploiting spawning aggregations. Such exploitation is sustainable as long as a sufficient portion of the population is not harvested and allowed to spawn.¹⁸⁷
- 4.11** The State Government has established 30 recreational fishing havens (RFHs) along the NSW coast. These 30 estuarine areas became RFHs in May 2002, and are largely free of commercial fishing.¹⁸⁸ The Committee was advised that the primary role of RFHs was to deal with the allocation of fish catch between the commercial and recreational fishing sectors, and that RFHs were not designed as biodiversity protection measures.¹⁸⁹

Voluntary closures

- 4.12** Representatives from the commercial fishing sector repeatedly drew the Committee's attention to the fact that the industry often implemented its own area closures in order to ensure the sustainability of harvested stocks. In evidence Mr John Harrison, Executive Officer, Professional Fishermen's Association, likened this practice to that of a farmer spelling a paddock. However, he did also note that if fishing areas available to the commercial sector continue to be reduced the ability to continue this practice will also reduce:

Commercial fishing utilises a vast array of techniques, including gear, but also rotation. They might fish a particular area this year and may not fish it for another two or three years. So it is a bit like a farmer spelling the paddock, if you like. They will not go there because, first, the fish or prawns are not there but, secondly, they also will want to spell it and they will fish somewhere else. So minimising the area that is available to them takes away the options of spelling or rotating effort in different areas. Once you do that and you aggregate the effort, then you have the problem of increased effort in a smaller geographic area. If you look at what has happened along the coast, there are industry-initiated juvenile king prawn closures right along the North Coast of New South Wales. That was driven and done by the commercial prawn trawl industry to protect the grounds for juvenile king prawns.¹⁹⁰

Marine Protected Areas

- 4.13** A marine protected area is a clearly defined geographical space, recognized, dedicated and managed, through legal or other effective means with the object of achieving the long-term conservation of nature with associated ecosystem services and cultural values.
- 4.14** Marine protected areas are recognized as a key tool to conserve marine biodiversity. The *United Nations Convention on Biological Diversity (1992)*, of which Australia is a party, aims to

¹⁸⁷ Kearney R, *The Pros and Cons of Marine Protected Areas in New South Wales: Who's Been Hoodwinked?*, December 2007, p 12.

¹⁸⁸ Industry & Investment NSW, <www.dpi.nsw.gov.au/fisheries/recreational/info/rfh>, accessed 27 October 2010.

¹⁸⁹ Mr Turnell, Evidence, 3 September 2020, p 20.

¹⁹⁰ Mr John Harrison, Executive Officer, Professional Fishermen's Association, Evidence, 15 June 2010, p16; see also, Mr David Anderson, Chairman, Clarence River Fishermen's Cooperative, Evidence, 15 June 2010, p 43.

establish a system of effectively managed marine protected areas by 2012. In 1998, all Australian Governments committed to establishing a *National Representative System of Marine Protected Areas (NRSMPA)*.¹⁹¹

- 4.15** There are three types of marine protected areas that contribute towards the NRSMPA – aquatic reserves, national parks and nature reserves, and marine parks. Each of these is considered in the following sections.

Aquatic reserves¹⁹²

- 4.16** The *Fisheries Management Act 1994* provides for the declaration and management of aquatic reserves to conserve the biodiversity of fish and marine vegetation and, where consistent, to protect fish habitat, threatened species, populations and ecological communities, and to facilitate educational activities and scientific research.

- 4.17** Twelve aquatic reserves cover around 2,000 hectares of NSW waters. Ten of these are located in metropolitan Sydney from Barrenjoey Headland (Palm Beach) to Shiprock (Port Hacking). Aquatic reserves at Cook Island on the far north coast and Bushrangers Bay on the south coast are popular dive sites. Many of these reserves aim to conserve invertebrates on rocky shores, but others include important areas of estuaries and ocean waters and fishing and other restrictions vary.

National parks and nature reserves¹⁹³

- 4.18** The *National Parks and Wildlife Act 1974* provides for the conservation of natural and cultural heritage, and the management of wildlife, including many marine and coastal species but not fish. The 2010 State Plan commits to the continued development of a comprehensive, adequate and representative system of reserves and this is being guided by the Government's National Parks Establishment Plan.

- 4.19** Marine protected areas are contained in 62 national parks and nature reserves. These parks include ocean coastlines, more than 10 per cent of NSW estuarine waters, shorelines and wetlands, coastal lakes, intertidal ocean beaches and rocky shores, and ocean islands. Some areas of national parks and nature reserves overlap marine parks (such as Myall Lakes) or adjoin aquatic reserves (for example Barrenjoey Head and Towra Point), while Bouddi National Park includes a 300 hectare marine extension that is closed to all fishing under the *Fisheries Management Act 1994*.

- 4.20** A Plan of Management is required under the Act for each reserve but does not regulate recreational fishing. While recreational fishing continues to be managed under the *Fisheries Management Act 1994*, national parks provide for a wide range of fishing opportunities and fishers commonly use parks to access waterways, including walking trails, sealed and unsealed roads and kayak and boat launching areas.

¹⁹¹ Submission 1007, NSW Government, p 6.

¹⁹² Information in this section is taken from Submission 1007, p 8.

¹⁹³ Information in this section is taken from Submission 1007, p 8.

Marine parks¹⁹⁴

- 4.21 NSW has made a significant contribution to the NRSMPA since 1998 through the establishment and management of six large multiple use marine parks. The *Marine Parks Act 1997* establishes a Marine Park Authority to oversee the declaration and management of a comprehensive system of marine parks. The Authority jointly advises the Minister for Climate Change and the Environment and the Minister for Primary Industries on the declaration and management of marine parks, and considers advice from the Marine Parks Advisory Council and park-based advisory committees.
- 4.22 The general process for establishing NSW marine parks involves identification and selection, declaration, zoning plan development and implementation and is based on agreed guidelines for establishing the NRSMPA.
- 4.23 *The Integrated Marine and Coastal Bioregionalisation of Australia* (Australian Government 1998, 2006) describes a series of bioregions (areas that have similar characteristics) for State and Commonwealth waters. Six 'meso-scale' bioregions include NSW waters.
- 4.24 Science based biodiversity assessments of each bioregion were completed between 2001 and 2005. These assessments identified conservation values, ecological condition and vulnerability and underpinned the identification of candidate areas for marine parks. Social, economic and cultural factors were considered in selecting areas for marine parks.
- 4.25 NSW marine parks aim to contain a 'comprehensive, adequate and representative' (CAR) sample of marine biodiversity. Comprehensiveness refers to the extent to which the full range of ecosystems and habitats in and across all bioregions are included in marine parks. Adequacy is the degree to which the size, boundaries and location of marine parks are adequate to maintain biodiversity and ecological patterns and processes, particularly the ability to manage activities that impact on such patterns and processes. Representativeness is the extent to which marine parks reflect the range of biological diversity of communities within ecosystems and habitats.
- 4.26 Declaration involves describing and naming the area of a marine park. Declarations are made by the Governor under sections 6 and 7 of the *Marine Park Act 1997*.
- 4.27 A marine park zoning plan is a regulation that protects examples of marine biodiversity in each park and provides for a range of sustainable uses, including fishing, diving, whale and dolphin watching, boating and cultural activities. The following zones apply:
- ***Sanctuary zones*** provide the highest level of protection to biodiversity, natural and cultural features. All forms of fishing and collecting activities are prohibited. Activities that do not harm plants, animals and habitats are permitted.
 - ***Habitat protection zones*** conserve marine biodiversity by protecting habitats and reducing high impact activities such as prawn and fish trawling. Recreational fishing and some forms of commercial fishing are permitted in these zones.

¹⁹⁴ Information in this section is taken from Submission 1007, pp 6-7.

- **General use zones** allow a wide range of activities including both commercial and recreational fishing, provided they are ecologically sustainable.
- **Special purpose zones** protect Aboriginal or other cultural features or marine facilities. They are also used for special management needs and specific park management reasons.

4.28 Zoning plans are developed with extensive community consultation involving local marine park advisory committees. Draft zoning plans are publicly exhibited for at least three months. Detailed consultation with recreational fishers occurs before and during public exhibition. Input gathered through submissions, community workshops, information stalls, stakeholder focus group meetings and advisory committee meetings is considered in developing and finalizing zoning plans. In each case draft zoning plans have been modified to address issues raised during consultation. The development of zoning plans is examined later in this chapter at paragraph 4:74.

National representative system of marine protected areas

4.29 As noted previously, Australia's commitments as a party to the 1992 United Nations Convention on Biological Diversity require it to establish a system of effectively managed marine protected areas by 2012.¹⁹⁵ In meeting its commitments to the National Representative System of Marine Protected Areas the State Government makes use of the definitions of protected areas developed by the International Union for the Conservation of Nature (IUCN).

*Description of IUCN categories*¹⁹⁶

4.30 The NSW Government has adopted the IUCN – World Conservation Union 1994 definition for protected areas:

An area of land and/or sea especially dedicated to the protection and maintenance of biological diversity, and of natural and associated cultural resources, and managed through legal or other effective means.¹⁹⁷

4.31 The IUCN definition for protected areas is used as the international standard for determining which lands are part of the world's nature conservation system, regardless of formal names or categories. The criteria do not require that protected areas be reserves, such as national parks, but do require that their explicit purpose is nature conservation and they are managed effectively.

¹⁹⁵ Mr Michael Wright, Director, Protected Areas Policy and Programs, Department of Environment, Climate Change and Water, Evidence, 19 April 2010, p 3; see also Mr Michael Wright, Director, Protected Areas Policy and Programs, Department of Environment, Climate Change and Water, Evidence, 3 September 2010, p 19.

¹⁹⁶ Information in this section taken from Tabled document, Mr Adrian Toovey, Manager, Aquatic Protected Areas, Department of Environment, Climate Change and Water, *Developing a Representative System of Marine Protected Areas in NSW – an Overview*, November 2001, p 12.

¹⁹⁷ Tabled Document, *Developing a Representative System of Marine Protected Areas in NSW –and Overview*, November 2001, p 12.

- 4.32 The IUCN definition applies to areas managed principally for biodiversity conservation. Associated cultural and other values are also covered in the definition. Within the NSW marine environment, marine parks, aquatic reserves, national parks and nature reserves are accepted as meeting the IUCN criteria and constitute marine protected areas.
- 4.33 To provide a better understanding of the type of protected areas throughout the world, the IUCN has developed six management categories. The categories are not hierarchical as all categories contribute to biodiversity conservation. The categories range from strict nature reserves to areas that allow managed sustainable use of natural resources and are applied to individual marine protected areas.¹⁹⁸
- 4.34 The six categories are:
- **Category Ia** – Strict nature reserve: protected area managed mainly for science
 - **Category Ib** – Wilderness Area: protected area managed mainly for wilderness protection
 - **Category II** – National Park: protected area managed mainly for ecosystem protection and recreation
 - **Category III** – Natural Monument: protected area managed mainly for conservation of specific natural features
 - **Category IV** – Habitat/Species Management Area: protected area managed mainly for conservation through management intervention
 - **Category V** – Protected Landscape/Seascape: protected area managed mainly for landscape/seascape conservation and recreation
 - **Category VI** – Managed Resource Protected Area: protected area managed mainly for the sustainable use of natural ecosystems.¹⁹⁹
- 4.35 Some inquiry participants argued that NSW was behind other States in meeting its commitments.²⁰⁰ Responding to these claims, the Committee sought to determine how the percentage of coastal waters enclosed within sanctuary zones in NSW compared to that of other States
- 4.36 The DECCW provided some comparative figures on the amount of coastal waters under a high level of protection for Western Australia, Victoria and New Zealand. The Committee notes that in providing its advice the Department cautioned that due to different legislative frameworks and circumstances it is not easy to compare no take zones from one jurisdiction to another:

Based on existing public data, as at 30 June 2009, Western Australia had 12% of its State waters within 13 CALM Act marine parks and reserves (MPRs), and only 2.5%

¹⁹⁸ Tabled Document, *Developing a Representative System of Marine Protected Areas in NSW – an Overview*, November 2001, p 12.

¹⁹⁹ Tabled document, *Developing a Representative System of Marine Protected Areas in NSW – an Overview*, November 2001, p 30.

²⁰⁰ Submission 860, National Parks Association of NSW, p 1; Submission 784, Nature Conservation Council of NSW, pp 1-2.

of its State waters under a higher level of protection. Victoria has 53,776 hectares protected within a no-take marine protected area system, representing 5.3% of Victorian waters. New Zealand has 32,775 hectares of no take marine protected areas representing 0.2% of the mainland territorial sea, which extends 12 nautical miles offshore. NSW has 65,129 hectares of sanctuary zone representing 6.7% of State waters which extend to 3 nautical miles offshore.²⁰¹

- 4.37** The response from the Department did not include reference to Queensland, presumably because the Great Barrier Reef Marine Park is managed by the Commonwealth Government. However, as Mr Ben Birt, Marine Conservation Officer, Nature Conservation Council of NSW, noted that majority of sanctuary or no-take zones within Australian waters are in the Great Barrier Reef Marine Park.²⁰²

What are New South Wales targets or requirements?

- 4.38** Mr Michael Wright, Director, Protected Areas Policy and Programs, Department of Environment, Climate Change and Water, confirmed to the Committee that the State Government had not adopted, nor was it obliged to adopt, quantitative targets for marine protected areas:

The New South Wales Government has not adopted targets for marine park coverage, marine protected area coverage or no-take zones, so there are no quantitative targets. In fact there are no quantitative targets at a national level either.²⁰³

- 4.39** However, in evidence at a later public hearing, Mr Adrian Toovey, Manager, Aquatic Protected Areas, Department of Environment, Climate Change and Water, told the Committee that there was a requirement for including sanctuary zones or their equivalent in the NSRMPA:

Yes, there is. One of the components of the national representative system of marine protected areas is that you would have areas that are more highly protected than others so sanctuary no take zones or their equivalents do exist around the country in the various parts of the national system, including in the Commonwealth marine reserves.²⁰⁴

- 4.40** The Department provided further advice on the basis for this requirement to include some areas within sanctuary zones:

...the National Representative System of Marine Protected Areas (NRSMPA) requires 'highly protected areas' or sanctuary zones as they are called in NSW. The definition of these zones relates to definitions of the International Union for Conservation of Nature (IUCN) categories for the highest level of protection.

²⁰¹ Answers to questions taken on notice during evidence, Mr Michael Wright, Director, Protected Areas Policy and Programs, Department of Environment, Climate Change and Water 19 April 2010, Question 2, p 1.

²⁰² Mr Ben Birt, Marine Conservation Officer, Nature Conservation Council of New South Wales, Evidence, 30 August 2010, p 2.

²⁰³ Mr Wright, Evidence, 19 April 2010, p 22.

²⁰⁴ Mr Adrian Toovey, Manager, Aquatic Protected Areas, Department of Environment, Climate Change and Water, Evidence, 3 September 2010, p 20.

The Guidelines for Establishing the NRSMPA (published in 1998) and the Strategic Plan of Action for the NRSMPA (published in 1999) were endorsed by Government Ministers of the Australian and New Zealand Environment Conservation Council (ANZECC) and both documents state that marine protected areas in the NRSMPA:

- 'will aim to include some highly protected areas (IUCN Categories I and II) in each bioregion' – this is one of the nine principles for development of the NRSMPA
- 'may incorporate areas ranging from highly protected areas to sustainable multiple use areas accommodating a wide spectrum of human activities'.

The sanctuary zones of NSW marine parks are typically classified under IUCN Category II (with habitat protection zones as Category IV and general use zones as Category VI).²⁰⁵

- 4.41** The Committee received conflicting opinions on this matter. The two main areas of conflict were the question of whether there was a specific target or requirement for the establishment of sanctuary zones within marine parks, and whether the NSW Government was required to establish a marine park within the Hawkesbury Bioregion.

Sanctuary zone percentages

- 4.42** The Committee's attention was often directed to various international calls for percentages of the world's waters to be enclosed within no-take sanctuary zones. Mr Dave Thomas, President, Eco Divers, told the Committee that documentation from scientists globally say that for species of fish stock to survive 20 to 30 per cent of ocean waters need to be protected within sanctuary zones.²⁰⁶
- 4.43** Similarly, Mr Ashley Love, President, Coffs Harbour-Bellingen Branch, NSW National Parks Association (NPA) said it was a target set by the IUCN, which was the basis for the NPA's fairly conservative call for 20 per cent of State Waters in sanctuary zones:

Our submission refers to an IUCN target of 20 per cent, that is, the International Union for Conservation of Nature in 2003. It was actually 20 to 30 per cent. Nevertheless, we have stated the fairly conservative end at 20 per cent in a fairly substantial document. We advocate 20 per cent of New South Wales waters be included in sanctuary zones in new and existing—

- 4.44** Mr Len Olyott, Chief Executive Officer, RecFish Australia, pointed out to the Committee that the NRSMPA does not have any requirements in terms of percentages of cover:

One thing I am mindful of is there is an international agreement to have a comprehensive representative network of marine parks by 2012. What is that measure? It has no percentages of cover attached to it.²⁰⁷

²⁰⁵ Answers to questions taken on notice during evidence, Mr Michael Wright, Director, Protected Areas Policy and Programs, Department of Environment, Climate Change and Water, 3 September 2010, Question 10, 2010, p 5.

²⁰⁶ Mr Dave Thomas, President, EcoDivers, Evidence, 30 August 2010, p 52.

²⁰⁷ Mr Len Olyott, Chief Executive Officer, Australian Recreational and Sport Fishing Industry Confederation Incorporated, Evidence, 19 April 2010, p 44.

- 4.45 ACoRF commissioned Professor Kearney to critique the *Torn Blue Fringe*. In his critique, Professor Kearney stated that while the NSW Government is committed to establishing a CAR regime of marine protected areas there is no commitment nor requirement that sanctuary zones (which he equates to IUCN Category Ia) be implemented. He further stated that the Strategic Plan of Action for the NRSMPA acknowledges that each marine park can be classified into one or more of the six IUCN protected area management categories.²⁰⁸
- 4.46 Both Professor Kearney and Dr Philip Creagh, Chair, Narooma Port Committee, pointed out that under the NRSMPA there is no requirement to restrict any form of fishing, through the establishment of a sanctuary zone or by other means, within a marine protected area unless it has been shown to have or threatens to have a significant negative impact on the area.²⁰⁹
- 4.47 The *Independent Review of Marine Park Science in NSW*, while not stating there was a requirement, noted there was a recognition that all habitats need to be represented in sanctuary zones under the CAR principle. However, the report also noted that the inclusion of some areas required careful consideration in terms of whether they provide conservation benefit and how they practically address specific threats:

Notwithstanding a recognition that all habitats need to be represented in sanctuary zones under the CAR principles, the Independent Review Panel felt the inclusion of some of these areas (for example, ocean beaches and estuaries) needed more careful consideration, especially in terms of associated socio-economic impacts and putative conservation benefits. A thorough review of their worth and expected benefits could include more explicit consideration of how a particular zone (and the activities not permitted within it) can address specific threats, predictions made about what protection is expected from zones in particular Marine Parks, and how the different zones contribute to meeting the Comprehensive-Adequate-Representative principles for the Marine Park system.²¹⁰

Each bio-region to have a marine park

- 4.48 The NSW coastline falls within a number of marine bio-regions, as depicted in Figure 2 on the following page.
- 4.49 From the information within the documents provided to the Committee by the DECCW, it appears that there was, at one stage, an intention to have a marine park in each bio-region:

Marine parks will be the largest component of that [Marine Protected Areas] system, and there will be at least one marine park in each bioregion and marine province along the NSW coast.²¹¹

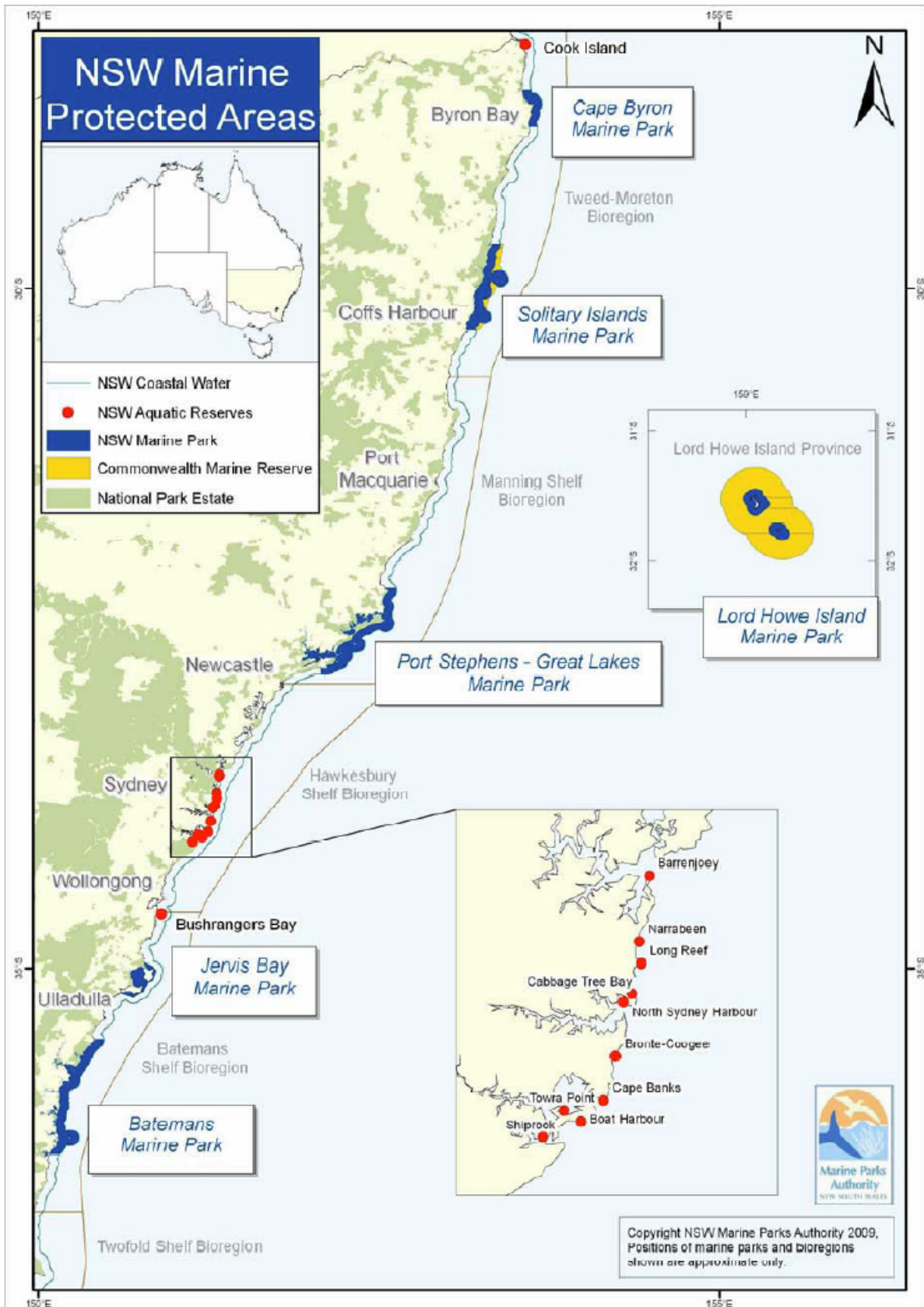
²⁰⁸ Kearney R, *Response to ACoRF on the Torn Blue Fringe: Marine Conservation in NSW*, March 2009, p 17.

²⁰⁹ Copy of correspondence between Professor Kearney and Director General, DECCW, 20 May 2010, p 4; Dr Philip Creagh, Chair, Narooma Port Committee, Evidence, 26 May 2010, p 24.

²¹⁰ Fairweather P, Buxton C, Robinson J, *Marine Park Science in NSW – An Independent Review*, A report prepared for the Marine Parks Advisory Council NSW, December 2009, pp 27-28.

²¹¹ NSW Marine Parks Research Committee, *Strategic Framework for the Evaluation and Monitoring of Marine Parks in NSW*, March 2004, p7

Figure 2 Map of New South Wales marine bio-regions



- 4.50** A number of inquiry participants highlighted the fact that the Hawkesbury bioregion which incorporates the Sydney area did not have a marine park under the Act. It was put to the Committee by some participants that there had at one time been a commitment from the NSW Government to establish a marine park in this bio-region. A number of different perspectives were also given on the reasons why it did not eventuate, from it being a political decision to it being a concession to the recreational fishing lobby.
- 4.51** Professor David Booth, Councillor, Australian Marine Sciences Association - NSW (AMSA) said there had been an understanding that each bio-region would have at least one marine park. He rued the fact that, despite the recommendation of the Hawkesbury Bioregional Assessment Plan, the decision was made that no new marine parks would be created. Professor Booth argued that this decision was due to the efforts of the recreational fishing lobby.²¹²
- 4.52** However many recreational fishers from non-metropolitan areas were also critical of the fact that the Hawkesbury did not have a marine park. A number of witnesses at the public hearing held in Batemans Bay referred to assurances that they had received at the Ministerial or sub-Ministerial level that there would be one marine park established in each bio-region.²¹³ Many recreational fishers from Batemans Bay believed that because their bio-region was host to the Jervis Bay Marine Park, they were 'safe' from the threat of a park being established in their area.²¹⁴
- 4.53** The Committee was advised that while there was no marine park in either the Hawkesbury or Twofold Shelf bio-regions, this would not compromise the State's commitments to the NRSMPA:
- In terms of the Hawkesbury shelf bioregion, it is true to say that there is not a multi-use or large scale marine park in that bioregion. However, there are 10 small aquatic reserves, which are a sample of rocky shores and estuarine habitats. In terms of the Twofold shelf bioregion, only 10 per cent of that bioregion is in New South Wales; the remainder is in Victoria. There is a system of marine national parks in place in Victoria.²¹⁵
- 4.54** Mr Mark Fleming, Vice President, Coastwatchers Association, expressed his opinion that the establishment of more marine parks was inevitable sometime in the future.²¹⁶
- 4.55** As is examined in the next section, despite the official position of the NSW Government, there was a strong belief among many communities that the establishment of more marine parks was not only inevitable, but imminent.

²¹² Professor David Booth, Councillor, Australian Marine Sciences Association - NSW, Evidence, 27 April 2010, p 6.

²¹³ Mr Ric Cumming, Southern Marine Park delegate, Underwater Skindivers and Fishermen's Association, Evidence, 26 May 2010, p 20.

²¹⁴ Mr John Moore, Narooma Sporting and Services Fishing Club, Evidence 26 May 2010, p 49.

²¹⁵ Mr Wright, Evidence, 19 April 2010, p 7.

²¹⁶ Mr Mark Fleming, Vice-President, Coastwatchers Association, Evidence, 26 May 2010, p 18.

Whether more marine parks will be established in NSW

4.56 The submission from the NSW Government states that it has no plans to establish new marine parks in the State and instead will focus on the management and review of existing parks.²¹⁷ This statement has been reiterated in Ministerial press releases relating to zoning reviews of the Jervis Bay and Solitary Islands marine parks.

4.57 However it is clear that this message has not reached many communities within the State, or has been received with skepticism. There is a real belief among many citizens that the State Government is planning to establish more marine parks. During the Inquiry two particular factors emerged as contributing to this confusion.

4.58 It became clear during the public hearings that a document by a non-government organisation, the NPA, had been widely circulated to recreational fishing organisations by those opposed to marine parks. Recreational fishers were given the impression that this document was part of a government process to review marine parks – which it was not. The circulation of this impression caused considerable distress to recreational fishers. Many of the witnesses were not aware of the statements of the NSW Government that it would not be establishing any more marine parks.

4.59 Mr Bill Judd, Member, Laurieton United Servicemens Club Fishing Club, told the Committee of the concern among the Camden Haven area caused by the prospect of the recommendations made within the report:

If there were implementations from The Torn Blue Fringe in the Camden Haven area, you could close the towns down. Some of the areas they want to lock up are totally incredible, if it is implemented, but we have just been told that it is not going to be.²¹⁸

4.60 In the South Coast areas of the State concern was also caused through confusion with the current Commonwealth process for establishing additional marine protected areas in Commonwealth waters.²¹⁹

4.61 At the public hearing in Griffith the Committee some witnesses raised concerns about the prospect of the establishment of inland freshwater marine parks. Mr Terence Maloney, Secretary, South West Anglers Association, said their concern was based on a proposal that was given coverage in the local media:

Previous speakers have said they have only heard rumours but the moves were significantly more than rumours. The proposal was put forward by a freshwater scientist several months ago. It was broadly covered in the media in this region—I know in several newspapers—and it was also discussed at a Murray cod forum at Mulwala a couple of months ago. It is more than a rumour. This was a definite

²¹⁷ Submission 1007, p 1.

²¹⁸ Mr Bill Judd, Member, Laurieton United Servicemens Club Fishing Club, Evidence, 5 May 2010, p 45.

²¹⁹ Mr Raymond Robinson, President, North Haven Bowling Fishing Club, Mr Geoff Williams, Member, Lake Cathie Bowling Club Fishing Club, and Mr Judd, Evidence, 5 May 2010, p 40.

proposal put forward by this person for marine protected areas to mirror the marine parks on the coast, I suppose. Our concern about that is that it will severely limit access to recreational fishing. It will have the effect of pushing that fishing pressure to the extremities of that area. It will just add pressure to other areas.²²⁰

- 4.62** This case highlights the problem with how information relating to marine parks is presented to the general public. Mr Cameron Westaway, Senior Fisheries Manager, Inland, Industry & Investment NSW, told the Committee that the concern generated in the community was in part due to the manner in which it was reported in the media, which focused on the scientist in question's comments relating to freshwater protected areas made at a previous conference in another State and briefly mentioned again at Mulwala, notwithstanding the fact that the forum in question was concerned with targeted research on Murray Cod:

Yes, not my context, not the recreational fishing context, but his context, and the media of course ran with the one that would cause angst—as they do—and that ran, and ran again, and he was interviewed again and again, and that is what raised some concern. But he is an independent private person who is entitled to his views.²²¹

Marine parks in New South Wales

- 4.63** This section describes the six marine parks in NSW and examines the issues relating to the management and impact of marine parks that were most frequently raised with the Committee. Each of the parks is briefly described below.
- 4.64** **Solitary Islands Marine Park** was declared on 2 January 1998 and the zoning plan for the park came into effect in 2002. The park is located on the Coffs Coast midway between Sydney and Brisbane. It covers 71,000 hectares and stretches from the northern side of Muttonbird Island at Coffs Harbour, 75 kilometres north to Plover Island at the mouth of the Sandon River. It extends from the mean high water mark and upper tidal limits of coastal estuaries and lakes, seaward to the three nautical mile limit of State waters and includes all of the seabed.
- 4.65** The Solitary Islands Marine Reserve (Commonwealth Waters) lies on the seaward side and adjacent to the Solitary Islands Marine Park. The Marine Reserve extends from the Marine Park boundary out to the 50 metre depth contour.²²²
- 4.66** **Jervis Bay Marine Park** was declared on 2 January 1998. The zoning plan for the Park came into effect on 1 October 2002. The park covers approximately 21,500 hectares, spanning over 100 kilometres of coastline. It extends from Kinghorn Point in the north to Sussex Inlet in the south. It includes most of the waters of Jervis Bay, with the southern waters forming part of the Commonwealth-managed Booderee National Park (and thus not part of the NSW Jervis Bay Marine Park). Unlike other Marine Parks in NSW it extends only 1.5 kilometres offshore.

²²⁰ Mr Terence Maloney, Secretary, South West Anglers Association, Evidence, 27 May 2010, p 53.

²²¹ Mr Cameron Westaway, Senior Fisheries Manager, Industry & Investment New South Wales, Evidence, 27 May 2010, p 73.

²²² Tabled document, Department of Environment, Climate Change and Water, *Solitary Islands Marine Park & Solitary Islands Marine Reserve (Commonwealth Waters): zoning summary and user guide* Marine Parks Authority NSW.

- 4.67 Lord Howe Island Marine Park** is located 590 kilometres offshore from the NSW north coast and covers an area of about 46,000 hectares. The Park was declared in 1999 and the current zoning plan commenced in 2004.
- 4.68 Cape Byron Marine Park** the outer boundaries were declared in 2002 and the zoning plan commenced on 1 May 2006. The park is approximately 22,000 hectares in size and encompasses coastal waters up to three nautical miles seaward from Lennox Head in the south up to and including the Brunswick River in the north.²²³
- 4.69 Port Stephens-Great Lakes Marine Park** was declared on 1 December 2005. The zoning plan for the Park was gazetted on 2 March 2007 and commenced on 21 April 2007. The Park, covers an area of approximately 98,000 hectares, extends from the Cape Hawke Surf Life Saving Club near Forster south to Birubi Beach Surf Life Saving Club at the northern end of Stockton Beach and includes offshore waters to the 3 nautical mile limit of State waters. It includes Port Stephens and the Karuah River, the Myall River, Myall and Smiths Lakes and all their creeks and tributaries to the tidal limit.
- 4.70 Batemans Marine Park** was declared on 7 April 2006 and the zoning plan came into effect on 30 June 2007. The Park covers an area of approximately 85,000 hectares. It extends from the most northerly point of Murramarang Beach near Bawley Point south to the southern side of the Wallaga Lake entrance. It includes all of the seabed and waters from the mean high water mark to three nautical miles offshore. It includes all estuaries, creeks, rivers and lakes (except Nargal Lake) to the limit of tidal influence.

Location of marine parks along the coastline

- 4.71** Approximately thirty per cent of the NSW coastline is encompassed within marine park boundaries. Four per cent of the coastline falls within sanctuary zones.
- 4.72** Approximately 40 per cent of the NSW coastline is contained within terrestrial National Parks. The Committee was advised that many areas of each marine park abut coastal national parks and reserves and that these areas are afforded significant catchment protection and are likely to support more natural ecological processes upon which biodiversity depends.²²⁴ Mr Alan Jeffery, Regional Manager, Department of Environment, Climate Change and Water, similarly noted the benefit afforded to the Solitary Islands Marine Park by having approximately 60 per cent of its length sharing a boundary with terrestrial protected areas.²²⁵
- 4.73** Overall, approximately 58 per cent of the marine park ocean coastline for mainland NSW is also within a terrestrial national park.

²²³ Mr Andrew Page, Marine Park Manager, Cape Byron Marine Park, Evidence, 15 June 2010, p 46.

²²⁴ Answers to questions taken on notice during evidence, Mr Wright, 19 April 2010, Question 2, p 2.

²²⁵ Mr Alan Jeffery, Regional Manager, Department of Environment, Climate Change and Water, Evidence, 15 June 2010, p 48.

Initial zoning plans

4.74 Marine park zoning plans determine which areas are and are not available for recreational fishing. Zoning plans are developed with extensive community consultation. However, many recreational fishers were highly critical of the zoning process.

4.75 Appendix 3 of the NSW Government submission provides an overview of the development of the initial zoning plan for the Port Stevens-Great Lakes Marine Park (PSGLMP). That was summarised in evidence by its Mr Max Haste, Manager, Port Stevens-Great Lakes Marine Park:

As indicated in appendix 3 of the New South Wales Government's submission, the park was zoned around information from both habitats and user information. When the park was first declared in December 2005 I think we circulated 50,000 surveys and from that we received approximately 2,200 returns. That was our user information, which was combined with our habitat information. Sixty-two other meetings were held with stakeholders, and six meetings were held with the advisory committee to come up with the draft zoning plan with which we went out. Following that we advertised the existence of the zoning plan, as required by legislation, and commenced consultation.

Basically, we were provided with a case study of Port Stephens in appendix 3 to the Government's submission, so I will not delve too deeply into that today. Suffice it to say that we held 75 other meetings with the public and we received roughly 4,400 submissions in return. Those submissions were considered by the Minister and by the advisory committee and they went towards the final make-up of the zoning plan.²²⁶

4.76 Similarly, Mr Timothy Shepherd, Regional Manager, Far South Coast, National Parks and Wildlife Service, outlined the level of consultation undertaken in the development of the Batemans Marine Park original zoning:

The consultation for the Batemans Marine Park zoning plan included 91 formal meetings with stakeholders and committees, as well as 18 meetings with traditional owners. It included at least five meetings with the advisory committee during the public consultation phase of the draft zoning plan. Consultation with stakeholders also included the issue of 40,000 draft questionnaires prior to release of the draft zoning plan followed by the issue of 60,000 draft zoning plans. In response, the Marine Parks Authority received 2,100 completed questionnaires and 5,075 comments on the draft zoning plan. As a consequence, the current zoning plan includes a number of modifications from the draft plan in response to issues identified during the public exhibition period.²²⁷

4.77 However, the Committee heard from a number of participants who were critical of how information that was sourced from the consultation process was used. There was a general belief that when recreational fishers were asked to identify popular fishing spots they were then used as the basis for selecting sanctuary zones:

²²⁶ Mr Max Haste, Manager, Port Stephens Great Lakes Marine Park, Department of Environment, Climate Change and Water, Evidence, 4 May 2010, p 34.

²²⁷ Mr Timothy Shepherd, Regional Manager, Far South Coast National Parks and Wildlife Service, Department of Environment, Climate Change and Water, Evidence, 26 May 2010, p 3.

Where that 20 per cent was is not determined by science; it is determined by when everybody went into the room, they marked all their fishing spots on the reefs and around the whole area. It appears to me that they just put circles and they told them where all the fish were, so that must mean they were the best spots to lock up, because fish would not be there if it was a desert or out in the middle of nowhere. Then when the final crunch came, they could bargain which areas they could swap.²²⁸

- 4.78** Ms Marion Stockman, who owns a fishing tackle shop in the Batemans Bay area, said that she did not involve herself in the original zoning plan for the Batemans Marine Park as she was suspicious of the process:

...but I never put in a submission because when they came around they wanted you to put in where your favourite fishing spots were. You would have to be stupid to do that, because that is exactly where the sanctuary zones went in. For the people who filled them out and sent them in, that is exactly where they went.²²⁹

- 4.79** Mr Greg Davis, President, Canberra Fisherman's Club was of the same opinion. Mr Davis said he believed that this is a main reason for the current anti-marine park sentiment:

Throughout most of the marine park processes we have been asked to say where we fish and, in most of those cases, the high majority of our most favoured fishing spots have been locked up in sanctuary zones. So, that is why there is anti-marine park sentiment within the fishing community.²³⁰

- 4.80** This perception was echoed by others²³¹ including Mr David Clark, President, and Mr John Moore, Narooma Sporting and Services Fishing Club. Mr Moore believed that the loss of fishing spots identified by fishers during the initial process has resulted in a loss of trust that will hamper future zoning plan consultations:

That is going to make future management or planning more difficult, because everyone now knows that if you will highlight a spot where it is good for fishing, that is going to be closed. That is probably one of the casualties of the whole process.²³²

- 4.81** The Committee notes that some marine parks include fishing from beaches out to 100 metres within some sanctuary zones to allow land based recreational fishers to continue fishing from popular spots.

- 4.82** Mr Mel Brown, spearfisher, was involved in the original zoning plan for the Jervis Bay Marine Park. He said the role of the advisory committee was to negotiate an outcome from within the constraints set by the Marine Park Authority:

For the Jervis Bay Marine Park the authority put the proposal on the table: These are the areas in which we want sanctuary zones, this is habitat protection, this special purpose and this is open. Then it was basically argy-bargy from the committee as to

²²⁸ Mr Robert Smith, Chairman, The Fishing Party, Evidence, 5 May 2010, p 3.

²²⁹ Ms Marion Stockman, Fishing tackle shop owner, Evidence, 26 May 2010, p 47.

²³⁰ Mr Greg Davis, President, Canberra Fishermen's Club, Evidence, 27 May 2010, p 80.

²³¹ For example, Mr Geoff Parker, Fisheries and Environmental Spokesman, Coffs Harbour Deep Sea Fishing Club, Evidence, 15 June 2010, p 58.

²³² Mr Moore, Evidence, 26 May 2010, p 65.

whether those zones were lengthened, reduced, placed to the south or to the north. They were not decided by the committee; they were decided by the staff of the Marine Parks Authority.²³³

- 4.83** Mr Ian Smith, a member of the original and current Batemans Marine Park Advisory Committee, noted that given the strong views of the various sectors represented on Advisory Committees, consensus is rarely likely:

With my appointment last committee on the Batemans Marine Park Advisory Committee, the map that came out was not a committee map; it was brought out by the Marine Parks Authority. We did get the chance to comment on the draft map and after consideration of our comments—there was no consensus, by the way; if we were waiting for consensus there still would not be a map out—the map was then changed and brought out. The latest map, which I take it is what you have, is now mark III.²³⁴

- 4.84** Mr Smith told the Committee that he believed the failure to consider and implement some alternatives to strict sanctuary zones was an opportunity lost and as a result the dissatisfaction of general fishers is being exploited by the anti-marine park lobby. If alternatives had been allowed, Mr Smith suggests ownership of the marine park would have been 'jealously guarded by local anglers:

Unfortunately the broad values of Marine Parks are being eroded by the small issues which are being turned from molehills into mountains as they are exploited by the anti marine park lobby.

To overcome these problems requires a bit of common sense, which as you are all aware is a very uncommon commodity.

If only the BMP zoning had allowed non intrusive angling activities in some of the sanctuary zones, such as the use of non powered craft, no anchoring, catch and release, the use of fly and lure only, the ownership of the BMP would have been jealously guarded by local anglers.²³⁵

- 4.85** The potential for allowing specific fishing activities within sanctuary zones is examined later in this chapter at paragraph 4.328.

- 4.86** The Committee also heard evidence from Mr John Clarke, a fishing media personality, who was involved in the initial zoning process for the PSGLMP. Mr Clarke said that he always felt it was inevitable that a marine park would be declared in the area. He said that he decided to take a pragmatic view and attempt to secure the best possible result from the process:

When the marine park was declared I always felt that it would be inevitable that a marine park would be declared because of the great habitat we have. So it was not surprising to me when it was declared. At that stage I decided to accept that it was coming here and to work within the boundaries—the laws of the game, if you wish—

²³³ Mr Mel Brown, spearfisher, Evidence, 29 April 2010, p 37.

²³⁴ Mr Ian Smith, Recreational fishing representative, Batemans Marine Park Advisory Committee, Evidence, 26 May 2010, p 50.

²³⁵ Answers to questions taken on notice, Mr Ian Smith, Recreational fishing representative, Batemans Marine Park Advisory Committee, 28 June 2010, p 2.

to achieve the best possible outcomes for my stakeholders, who are recreational fishermen.

...Because it takes up such a massive area between Forster and Birubi—three nautical miles to sea, the Myall Lakes and all the feeder streams—Port Stephens is a massive area particularly when you also add the Great Lakes. It impacts on many people. Recreational fishermen are exactly the same as other people: if there is to be so much change there will be a reaction. I think that the initial reaction was one of fear about all the prized fishing spots that would be lost. I went in there with an attitude of protecting those areas as best I possibly could. I feel as though I have been successful in protecting the areas that really needed protecting. It is not perfect—it is far from being perfect—and good areas were lost. But we have to reach a compromise.²³⁶

4.87 Batemans Marine Park is the most recently declared marine park in NSW. Its zoning plan came into effect approximately 14 months after the park was declared, a much shorter timeframe than was the case for most other marine parks. Mr Shepherd said the Batemans zoning plan benefited from the experience of implementation of other marine parks. It was also supported by a large amount of scientific literature available at the time.²³⁷

4.88 However, a number of witnesses compared the zoning plan development for Batemans Marine Park unfavourably with the process for Jervis Bay, one of the earlier declared parks. Mr James Harnwell, Editor and publisher, *Fishing World*, was one witness who drew the comparison between Jervis Bay and Batemans Marine Park processes:²³⁸

Things did go very, very quickly. The Jervis Bay one took a long time—some years. There was continual toing and froing, with meetings and so forth. I thought that whole Jervis Bay process under the original park manager, Graham Byron, was very well handled and tried to give people as much opportunity as they could to comment on it. I do not think the Batemans Bay one was quite as efficient in doing that. I think as a result of that we have seen a lot of disquiet, anger and probably negative publicity for the whole marine parks idea in general.²³⁹

4.89 This view was echoed by Mr Rod Peterlin, who felt the zoning process for Batemans Bay was rushed. While he was not overly familiar with the other marine parks, he believed the Jervis Bay process stood out as a model.²⁴⁰

4.90 Mr Moore was another who compared the process for the Batemans Marine Park unfavourably with those of Jervis Bay:

Jervis Bay was planned. There was a long planning process. Fisheries started it before the marine parks had commenced. It was done considering everything. This one was not. This one was not only flawed science, it was also flawed social impact statements.²⁴¹

²³⁶ Mr John Clarke, Recreational fisher, Evidence, 4 May 2010, p 25.

²³⁷ Mr Shepherd, Evidence, 26 May 2010, p 3.

²³⁸ Mr James Harnwell, Editor and publisher, *Fishing World*, Evidence, 29 April 2010, p 11.

²³⁹ Mr Harnwell, Evidence, 29 April 2010, p 17.

²⁴⁰ Mr Rod Peterlin, Evidence, 29 April 2010, p 61.

²⁴¹ Mr Moore, Evidence, 26 May 2010, p 67.

- 4.91 Mr Peterlin also ventured that over time the fishing communities at other marine park locations will become more accepting of the outcome:

Jervis Bay Marine Park has been around a lot longer. Local fishermen have been fishing it long enough to know that this really has not hurt us. The other guys who have just had it come in think they have lost their backyard. They are going through what we went through 10 years ago.²⁴²

Review of zoning plans

- 4.92 Statutory reviews of each marine park zoning plan occur initially five years after commencement, and then at ten yearly intervals to determine whether the plans continue to meet the objects of the *Marine Parks Act 1997*. The NSW Government submission advised that these reviews provide an opportunity for adaptive management in response to new information.²⁴³ The zoning plans for both the Jervis Bay and Solitary Islands Marine Parks were being reviewed during the course of the Inquiry.

- 4.93 Of utmost interest to recreational fishers are any changes to sanctuary zones that may arise from a zoning review. Critics of the marine park system generally condemned the zoning review processes to date. Similar to their criticism of original zonings they argue there is no scientific basis for further restrictions on fishing access.

- 4.94 Mr Richard Tilzey, retired fisheries scientist, argued that undertaking a zoning review after five years could be futile if the review was to depend on scientific evidence of improvements to biological diversity, given the amount of time required to monitor such changes:

I stress, most research program funding usually extends over three or four years to get a meaningful dataset. You are looking at quite a few years here to be able to detect differences or changes, shifts in population or whatever. It has to be an ongoing thing. I am just guessing what is going to happen with Batemans Marine Park, for example, when the five-year review process comes up. They will not be able to demonstrate much difference between fish abundance within or without some protected fishing areas. Simply, the whole environment is far too dynamic for that.²⁴⁴

- 4.95 However, it is important that people are not put off by the initial zoning process and involve themselves in the periodic review periods. Mr Clarke said that with respect to the PSGLMP he would be actively encouraging as many people as possible to involve themselves in the process:

When our marine park is reviewed in 2012, I am encouraging as many persons as possible to involve themselves in those changes so that it can be improved because there are a lot of improvements to make. We are a long way from getting it right but hopefully in 2012 we can make the improvements that it needs.²⁴⁵

²⁴² Mr Peterlin, Evidence, 29 April 2010, p 61.

²⁴³ Submission 1007, p 11.

²⁴⁴ Mr Richard Tilzey, retired fisheries scientist, Evidence, 26 May 2010, p 35.

²⁴⁵ Mr Clarke, Evidence, 4 May 2010, p 29.

- 4.96** The debate on the validity of the scientific basis that underpins the creation and zoning of marine parks is examined later in this chapter. Zoning reviews also provide scope for allowing increased access to recreational fishers and, as is shown later in this chapter, some marine park zoning reviews have resulted in adjusted boundaries in order to improve recreational fishing access.

Sanctuary zones

- 4.97** For many members of the public marine parks and sanctuary zones are synonymous. For recreational fishers sanctuary zones are what constrain their activity. The major criticism of recreational fishers is that sanctuary zones, while only a small percentage of area within a marine park, represent the majority of the worthwhile fishing areas. There was also a concern expressed by representatives from some stakeholder groups that there appeared to be an arbitrary target of twenty per cent sanctuary zone coverage for marine parks.
- 4.98** These views should be weighed up against surveys undertaken by the Marine Park Authority that show support for sanctuary zones both by the public and recreational fishers. In his evidence to the Inquiry Mr Matt Carr, Manager, Jervis Bay Marine Park, noted:

An independent phone survey undertaken in the Shaolhaven in January 2008 comprising 402 interviews showed that 82 per cent of the respondents were in favour of the sanctuary zones in the marine park, with fishers also showing support for sanctuary zones but to a slightly lesser extent at 76 per cent.²⁴⁶

- 4.99** Recreational fishers consider reef structures to be prime locations to fish as that is where fish congregate and feed. The Committee often heard the complaint that within marine parks the sanctuary zones had locked-up all the good reef habitat and all that was open to recreational fishers was empty sand-flats.
- 4.100** This criticism was usually made by fishers from other regions, and from local fishers. This belief was also very strong among the recreational fishing communities who did not have a marine park in their area – and served to fuel their concern at the prospect of more marine parks being established. Mr Raymond Robinson, President, North Haven Bowling Fishing Club, explained why communities from the Camden Haven area were alarmed:

The frightening thing you hear from some of the meetings we have had that these people who bring these things up—when they bring in a sanctuary, for argument's sake—and they say, "We only have got 20 per cent of that sanctuary" but that 20 per cent is the three reefs where all the fish are caught and the other 80 per cent are the sand flats around it, so the parts of the sanctuary that are protected are the three parts where the fish are. That is why people get worried about these things.²⁴⁷

- 4.101** Mr Wright acknowledged the inherent conflict in that selecting locations with high biodiversity values, which invariably are places where large numbers of fish are concentrated, will see traditionally popular recreational fishing areas included in sanctuary zones.²⁴⁸

²⁴⁶ Mr Matt Carr, Manager, Jervis Bay Marine Park, Evidence, 29 April 2010, p 3.

²⁴⁷ Mr Robinson, Evidence, 5 May 2010, p 45.

²⁴⁸ Mr Wright, Evidence, 19 April 2010, p 16.

- 4.102** Professor Booth said he took umbrage at the suggestion that marine parks are designed to take away the best fishing spots. He referred to instances where sanctuary zones were amended in deference to fishing pressure. Professor Booth said he did not have much of a problem with such concessions but he did believe 'it drops the science a bit from the establishment of parks.'²⁴⁹
- 4.103** Professor Maria Byrne, Member, Australian Marine Sciences Association – NSW, argued that it was necessary to deliberately include areas that were previously heavily fished within sanctuary zones.²⁵⁰ In support of her argument, Professor Byrne tendered a copy of a scientific paper which emphasised this need:
- Locations that were formerly heavily fished are needed within MPA networks if the networks are to achieve conservation aims associated with (1) safeguarding all regional habitat types, (2) protecting threatened habitats and species, and (3) providing appropriate reference benchmarks for assessing impacts of fishing.²⁵¹
- 4.104** The article was critical of the fact that many recently created marine protected areas in Australia were avoiding the selection of popular fishing areas, particularly shallow rocky reef areas, and that this could potentially compromise biodiversity conservation goals.
- 4.105** It should be noted that some witnesses argued for the efficacy of sanctuary zones particularly with a spillover effect. Mr Peterlin noted in his evidence 'we are now catching more lobsters at Plantation Point, which is just north of that... I used to see them there, but only in ones and twos, and now there are normal clutches of crays that you see in a hole—half a dozen.'²⁵²
- 4.106** However it is abundantly clear from the evidence received during the Inquiry that the recreational fishing sector in NSW does not believe that popular fishing spots have been avoided in the selection of sanctuary zones. In fact, recreational fishers believe the opposite is the case.

The 20 per cent sanctuary zone “target”

- 4.107** The Committee received conflicting evidence on the question of the existence of a target or limit of the amount of marine park area to be included within sanctuary zones. As noted previously marine parks are based on the CAR principle – that is to contain a comprehensive, adequate and representative sample of marine biodiversity. Currently within the State's marine parks sanctuary zone coverage ranges from twelve per cent (Solitary Islands) to 27.5 per cent (Lord Howe).

²⁴⁹ Professor Booth, Evidence, 27 April 2010, p 4.

²⁵⁰ Professor Maria Byrne, Australian Marine Sciences Association - NSW, Evidence, 27 April 2010, p 4.

²⁵¹ Graham J Edgar et al, *Exploited reefs protected from fishing transform over decades into conservation features otherwise absent from seascapes*, Ecological Applications 19(8), 2009 pp 1967-1974.

²⁵² Mr Peterlin, Evidence, 29 April 2010, p 26.

- 4.108** A number of inquiry participants referred to either direct or reported comments from relevant NSW Government Ministers that supported the contention that a 20 per cent target applies.²⁵³ Professor Booth was one who related his experience to the Committee:

I think 20 per cent of the park is a somewhat arbitrary figure. It has been said there is no magic number of 20 per cent. It varies between parks. However, I do know when we were doing the Port Stephens park, the Minister said I am not taking more than 19 per cent, which is an unusual statement, but that is what ended up happening.²⁵⁴

- 4.109** The review of the zoning plans for both the Jervis Bay and Solitary Islands marine parks were underway during the Inquiry. The Committee was advised that there were no predetermined outcomes for either review and that the NSW Government had not adopted any specific targets for percentages of habitats to be represented in sanctuary zones.²⁵⁵

- 4.110** Under the current review of the zoning plan for the Solitary Islands Marine Park there is a proposal for zoning changes that would see the amount of sanctuary zones within the park increase from 12 per cent to 20 per cent. For many participants, including Mr Clarke, this served to reinforce the view that there appeared to be no basis other than an arbitrary target:

I noticed that and of all the six marine parks in this State, including Lord Howe Island, I do not know how it ever happened but Solitary ended up with 12 per cent, which is the least by a long shot, so I do not know, but I would say they are trying to bring them all up to the same. I cannot see any great value in that. If they have got what they need now, there is no necessity to take more.²⁵⁶

- 4.111** However, representatives from the Solitary Islands Marine Park Authority advised that new information arising from extensive sea-bed habitat mapping had informed the review of the zoning plan. This mapping identified that there were some habitats such as those classified as deep reef and deep sediments that were under-represented. It is the proposed inclusion of these habitats that is the basis for the percentage increase in sanctuary zones within the Marine Park.²⁵⁷

- 4.112** The international requirements are covered in more detail in 4.30-4.38.

- 4.113** The Committee was further advised that to date only 25 per cent of the seabed of the marine park has been mapped, and that analysis indicates there is a total of 4.4 square kilometers of deep offshore reef known to occur in the marine park. Of this 0.2 per cent is currently included in sanctuary zones. Under the proposed draft zoning plan, 24.8 per cent of known deep offshore reef is identified for inclusion in sanctuary zones. Mr Jeffrey advised that it is likely there are other deep reef areas available to fishing that are currently not mapped,

²⁵³ For example: Mr Smith, Evidence, 5 May 2010, p 3.

²⁵⁴ Professor Booth, Evidence, 27 April 2010, p 7.

²⁵⁵ Answers to written questions taken on notice, Mr Michael Wright, Director, Protected Areas Policy and Programs, Department of Environment, Climate Change and Water, 18 May 2010, Question 16, p 10.

²⁵⁶ Mr Clarke, Evidence, 4 May 2010, p 31.

²⁵⁷ Mr Hamish Malcolm, Research Officer, Solitary Islands Marine Park, Department of Environment, Climate Change and Water, Evidence, 15 June 2010, p50; and Mr Jeffery, Evidence, 15 June 2010, p 53.

therefore the percentage of deep reef in proposed sanctuary zones is likely to be over-estimated.²⁵⁸

- 4.114** Under the current review of the zoning plan for the Jervis Bay Marine Park there is a proposal to create new a sanctuary zone. However this would be offset by rezoning a current sanctuary zone to become a habitat protection zone, with the result being no net increase of the current overall sanctuary zone percentage of 20 per cent.
- 4.115** Mr Carr advised that the proposed changes were based on the much improved sea-bed habitat mapping of the marine park. Mr Carr advised that the mapping showed that each habitat type was well represented in sanctuary zones with the exception of intermediate reef (rocky reef occurring at a depth of between 20 to 60 metres). Currently only 8 per cent of that habitat was protected. The major recommendation from the review was that the zoning plan be adjusted to capture more of that habitat, while not increasing the total area of sanctuary zones so as not to further displace any fishing activity.²⁵⁹
- 4.116** To achieve this it is proposed to shift the St Georges-Steamer Head sanctuary zone northwards – meaning that what was previously habitat protection zone would become sanctuary zone and vice versa. Mr Carr advised that the decision was based solely on the need to ensure that all habitats were adequately represented, and that shallow reef habitat – the predominant habitat represented in the current zone configuration, would maintain a similar level of protection.²⁶⁰
- 4.117** Currently the basis for selecting areas for inclusion within sanctuary zones is to capture a representative sample of all habitat types. Dr Kate Wilson, Executive Director, Scientific Services, Department of Environment, Climate Change and Water, said this approach, using habitat as a surrogate, was applied throughout the country. This approach required on-going assessment to test the validity of the selections:

New South Wales, in line with the approach that is used both by the Commonwealth and the other States and the Northern Territory, based the identification of representative areas on using underwater habitat as a surrogate. That is using the habitat to project the kinds of biodiversity you are going to save there, and that is in turn ground-truthed and tested using approaches like the baited remote underwater videos.²⁶¹

Recommendation 5

That the Marine Park Authority continue to publish information identifying the location of the various categories of reef habitat within each park for the use of the marine park users and to continue publish information on the seabed mapping program as it progresses.

²⁵⁸ Answers to questions taken on notice, Mr Alan Jeffrey, Regional Manager, North Coast, Department of Environment, Climate Change and Water, 29 July 2010, p 1.

²⁵⁹ Mr Carr, Manager, Jervis Bay Marine Park, Evidence, 29 April 2010, p 6.

²⁶⁰ Mr Carr, Evidence, 29 April 2010, pp 7-8.

²⁶¹ Dr Kate Wilson, Executive Director, Scientific Services, Department of Environment, Climate Change and Water, Evidence, 3 September 2010, p 7.

Review of sanctuary zone boundaries

- 4.118** In evidence Mr Andrew Page, Manager, Cape Byron Marine Park, said that while the main driver for the location of sanctuary zones is to achieve a representative sample of all habitat types, sanctuary zone boundaries are tweaked for manageability reasons.²⁶² During the Inquiry the Committee received evidence of examples where zone boundaries had been modified to either improve identification of boundary lines or, more frequently, to allow improved recreational fishing access.
- 4.119** The Committee heard that the proposed creation of a new sanctuary zone at Steamers Head in the Jervis Bay Marine Park had acknowledged the impact this would have on popular rock fishing sites. Ms Diane Garrod, Regional Manager, South Coast Region, National Parks and Wildlife, Department of Environment, Climate Change and Water, said that it was proposed to incorporate a 100-metre wide habitat protection zone that would allow rock fishers to continue to fish from the shore:
- And it is likely because of the ministerial directive that in looking at the relative movement of the Steamers Head Sanctuary Zone to pick up more intermediate reef we recognise that that would encompass a number of popular rock fishing sites. So, depending again on the public comments that do come in, the proposal is to have a 100-metre wide habitat protection zone strip adjoining the rocky reef. So, it would provide for rock fishers to be able to fish from shore but not for boat fishing because it would be too unsafe.²⁶³
- 4.120** The incorporation of a habitat protection zone within the boundaries of a sanctuary zone is the most common example of where zone boundaries have been amended to allow improved access for land-based recreational fishers. However, it is clear that these concessions occur more frequently in marine parks that have undertaken reviews.
- 4.121** The review of the Jervis Bay zoning plan also proposes the creation of a designated anchoring area along the entire length of the Hare Bay sanctuary zone. The Park Manager said the public requested better anchoring access to the Bay as it is a very protected spot popular with boating families. Mr Carr said the proposed anchoring zone would extend 50 metres out from the beach, as this coincides with the edge of the seagrass bed – the prime habitat protected by the sanctuary zone.²⁶⁴
- 4.122** Dr Wilson was asked whether in her view such concessions compromised the aim of biodiversity conservation. Dr Wilson responded that such trade-offs are inevitable in designing marine parks, and as long as the representative habitats are protected elsewhere there is no objection to them taking place.²⁶⁵
- 4.123** The Committee notes that islands within some marine parks are encompassed within a variety of zones – sanctuary, standard habitat protection, and habitat protection with seasonal or other restrictions. Again this occurs more often in some marine parks compared to others.

²⁶² Mr Page, Evidence, 15 June 2010, p 55.

²⁶³ Ms Diane Garrod, Regional Manager, South Coast Region, National Parks and Wildlife, Department of Environment, Climate Change and Water, Evidence, 29 April 2010, p 6.

²⁶⁴ Mr Carr, Evidence, 29 April 2010, p 9.

²⁶⁵ Dr Wilson, Evidence, 3 September 2010, p 19.

- 4.124** Dr Brendan Kelaher, Manager, Batemans Marine Park, said that in the case of Batemans Marine Park they had concentrated on having islands enclosed entirely within a single zone, in order to bring simplicity to the zoning plan:

I strongly think that in the end having open and closed islands is more simple and will have positive effects on compliance and make sure people can do what they need to do. Simplicity in a zoning plan will contribute to its long-term efficacy.²⁶⁶

- 4.125** There were calls from some inquiry participants for zones to be standardised between marine parks.²⁶⁷ The rationale for this call was twofold. First, that standardisation would aid in community understanding of and compliance with zone regulations. Second it was argued that standardisation, through legislation, would ensure standards and conditions of zones are maintained and not weakened across all parks through ongoing zoning reviews.²⁶⁸
- 4.126** The Committee was not persuaded by the rationale behind the call for standardization of zoning within marine parks. While there is a general attractiveness to standardisation in terms of ease of understanding and compliance, zoning does need to take into account local conditions and needs.

The impact of the establishment of marine parks on local communities

- 4.127** Marine parks are established in order to conserve marine biological diversity and marine habitats and in achieving this they are for the benefit of the State of NSW. However it is the local communities that feel the impact of the side-effects associated with the creation of a marine park. The Committee heard contrary evidence as to whether local communities overall benefited from or were disadvantaged by having a marine park in their area. It is also true that the benefits or disadvantages are not shared equally among various stakeholder groups or individuals.

Local recreational fishers

- 4.128** There is an obvious negative impact on the amenity of some local recreational fishers, through loss of access to what may have been their favourite fishing spots or through increased effort in the locations where fishing is allowed. The impact of having some locations closed to fishing is particularly acute for individual land-based fishers.
- 4.129** Mr Carr said that when working through the zoning review process, there was an acknowledgement that 'land based fishing generally has been one of the heavier impacted recreational sectors.'²⁶⁹ As was previously noted, marine parks, such as Jervis Bay, include some beach access within sanctuary zones that particularly assist access for the elderly and children.

²⁶⁶ Dr Brendan Kelaher, Manager, Batemans Marine Park, Evidence, 26 May 2010, p 7.

²⁶⁷ Select Committee on Recreational Fishing, Evidence, 3 September 2010, p 68; Submission 860, p 3.

²⁶⁸ Answers to questions taken on notice during evidence, Mr Ashley Love, President, Coffs Harbour Branch, National Parks Association of NSW, 3 September 2010, Question 2, p 3.

²⁶⁹ Mr Carr, Evidence, 29 April 2010, p 7.

- 4.130** Dr Kelaher said that in developing the original zoning plan concessions had been made in order to accommodate less mobile anglers or special needs groups:

That being said, there is a particularly small habitat protection zone in Wagonga Inlet, in a sanctuary zone. It is a tiny little one around a jetty that was designed, I think, for a commercial enterprise that needed access for wheelchair fishers at one stage. At Mullimburra there is a long habitat protection zone within a sanctuary zone to provide access for fishers there. The same at Handkerchief Beach, just south of Narooma. So you can find numerous examples of where those concessions have been made.²⁷⁰

- 4.131** Professor Kearney said that not enough consideration was given to the impact on the less mobile, he also noted the significant impact on individuals who purchased properties on the basis of having easy or direct access to a specific beach or river:

This was largely dismissed on the grounds that "We think these recreational fishers will be able to move and the benefits will outweigh the problems". What I said was that particularly the poor and the aged were not able to move as efficiently as many people and they would be disadvantaged by specific closures. There were many examples up and down the coast where people had actually retired to a specific beach area so that they could walk in their retirement to their preferred fishing spots. For those people the cost was indeed many hundreds of thousands of dollars. I talked to a couple somewhere on the South Coast, or a couple contacted me indirectly and said, "We've just moved here and we've spent a fortune on moving house and got here and now they have closed the beach that we came here for..."²⁷¹

- 4.132** Mr Clark told the Committee of the effect the sanctuary zone encompassing the entrance to Nangudga Lake within Batemans Marine Park had on his elderly father:

My father was 80 years old in them days. My father would love it when I used to take the kids down to Handkerchief Beach, where you can drive the car into a car park, take my dad out, plonk him in the middle of this creek with a prawn net and a light and he would sit there and catch a couple prawns. If he caught a blue swimmer crab, that was it. We lost all that. That interfered with my father's life. I cannot take my father anywhere else because it is not safe. I brought this up at other discussions and they said take him down to Corunna.²⁷²

- 4.133** The potential for improving land based access within marine parks, particularly along ocean beaches is examined later in this chapter at paragraph 4:321.

- 4.134** Mr Harnwell was one who was critical of the effect of displacement of recreational fishing effort caused by the establishment of sanctuary zones. Mr Harnwell questioned the overall biodiversity benefit when remaining locations are subjected to much increased recreational fishing pressure:

I cannot see the point of having one area with no-one in and then everyone in the few areas that are left open. What is the environmental benefit of that?...I can take you out

²⁷⁰ Dr Kelaher, Evidence, 26 May 2010, p 9.

²⁷¹ Professor Robert Kearney, Emeritus Professor, University of Canberra, Evidence, 27 April 2010, p 20.

²⁷² Mr Clark, Evidence, 26 May 2010, p 53.

this weekend to Longnose Point and you will see a lot of boats there that previously were not there because they now will not go around to Crocodile Head or Bowen Island.²⁷³

- 4.135** Some fishing spots are now subject to increased recreational patronage, and it must be noted that the removal of commercial fishing should enable those areas to support increased recreational effort.

Local business

- 4.136** The local economies in many coastal areas rely heavily on tourism. For many fishing has traditionally been a major factor in attracting travellers to their area. In addition, for some towns their local economy was historically built around a local commercial fishing industry.
- 4.137** As with many areas examined during the Inquiry the Committee received contrary evidence on the impact of marine parks on local businesses. It is apparent that marine parks can negatively affect some business types, but increase opportunities for others. Change invariably gives rise to concern and disquiet, and, not unexpectedly when concerns were raised with the Committee they related to the more recently established marine parks. Locals were more satisfied with the facilities of older marine parks.
- 4.138** The NSW Government submission includes a case study on the creation of the PSGLMP. As part of the process the Marine Parks Authority completed a study of the Estimated Economic Impact of the proposed park on commercial activities. The analysis found that the impact would not be felt evenly among all commercial activities:

The analysis concluded that the economic impacts of the marine park and likely zoning arrangements on the economy of the Port Stephens region were likely to be small, though that did not preclude the possibility that some local communities and some individuals might encounter significant economic impacts. Any impacts would be further reduced by the commercial fishing buyout arrangements that protect the household wealth and consumption expenditure of fishers who left the industry.²⁷⁴

- 4.139** The Batemans Bay area, the site of most recently established marine park, was where the Committee heard most from locals who were concerned about the impact on that section of the economy that relied on fishing. It was often said to the Committee that neighbouring areas not within the Marine Park now attracted fishing activity that was previously directed to the Batemans Area. Mr Jack Tait, President, Coastal Rights Association, was one who said that Ulladulla and Bermagui now benefited from greater fishing patronage, which he put down to the Batemans Marine Park:

It is quite simple. All you have got to do in that area is either go to Ulladulla on a Saturday or a Sunday morning and have a look at the car park there that is just chock-a-block full of recreational trailer boats. You can come to Bermagui and see exactly the same thing. The logons and log offs with coastal patrol boats in Narooma and in Batemans Bay have declined in some stages by 27 per cent, and it is not because the facilities have been downgraded or are dilapidated or anything like that, it is just the

²⁷³ Mr Harnwell, Evidence, 29 April 2010, p 15.

²⁷⁴ Submission 1007, p 16.

fact that with the areas that were taken as the sanctuary zones in the Batemans Marine Park it virtually took about 75 per cent of our best fishing spots out. Therefore, Ulladulla has no marine park; Bermagui exactly the same. So it has definitely had a big impact.²⁷⁵

- 4.140** In his submission and evidence the Dr Creagh referred to a number of businesses, some directly linked to recreational or commercial fishing, which had ceased operating due to reduced income.²⁷⁶ However in his evidence, he said it was impossible to say that this was a direct result of the marine park, business owners related to him that they believed it was the case.²⁷⁷
- 4.141** Charter fishing boats need to be licensed to operate in NSW waters. All commercial operations also require a licence to operate within marine parks. The Committee was advised that three recreational fishing charter boat businesses had closed in the Narooma area. In evidence Ms Stockman said that her business had slowly deteriorated since the implementation of the Batemans Marine Park.²⁷⁸ Ms Stockman also referred to increased fishing patronage in areas such as Ulladulla that were outside the marine park boundary.²⁷⁹
- 4.142** Professor Booth pointed out that the creation of marine parks provides an opportunity for increased ecotourism revenue, particularly revenue from overseas visitors if they are marketed properly.²⁸⁰ The Committee witnessed evidence of this during its site visit to Jervis Bay Marine Park.
- 4.143** Mr Matthew Cross, Manager, Dolphin Watch Cruises, based in Jervis Bay said that for his business the biggest asset is the existence of the marine park itself and his licence to operate within it.²⁸¹ Mr Cross added that the pristine beauty of Jervis Bay attracts many people to the area, who can either take advantage of the services offered by businesses such as his or simply explore the area themselves.²⁸²
- 4.144** Mr Cross said that his business had extended its whale watching season and that he believed that dolphin numbers had increased considerably. He believed the cessation of commercial bait fishing was the biggest reason for the increase in marine life, but that sanctuary zones are still necessary:

Food. The dolphins, everything feeds off the bay. My understanding is that in Jervis Bay the commercial fishing was predominately bait harvesting. On a day like today, if a westerly was not blowing with those glassy, calm conditions, you can walk on the bait balls on a given day across Jervis Bay.²⁸³

²⁷⁵ Mr Jack Tait, President, Coastal Rights Association, Evidence, 30 August 2010, p 57.

²⁷⁶ Submission 774, Narooma Port Committee, p 9.

²⁷⁷ Dr Creagh, Evidence, 26 May 2010, p 28.

²⁷⁸ Ms Stockman, Evidence, 26 May 2010, p 33.

²⁷⁹ Ms Stockman, Evidence, 26 May 2010, p 36.

²⁸⁰ Professor Booth, Evidence, 27 April 2010, p5; see also Professor Byrne, Evidence 27 April 2010, p 6.

²⁸¹ Mr Matthew Cross, Manager, Dolphin Watch Cruises, Evidence, 29 April 2010, p 64.

²⁸² Mr Cross, Evidence, 29 April 2010, p 65.

²⁸³ Mr Cross, Evidence, 29 April 2010, p 68.

- 4.145** Mr Clarke said that with respect to PSGLMP as far as he could ascertain, albeit from limited contact, the implementation of the marine park had not had a negative impact on the local economy:

I spoke to the local person in charge of tourism and all he was prepared to say was that there has been absolutely no negative impact by the declaration of the marine park. He would not say we have gone forwards but he said we definitely have not gone backwards. I quoted the 30 per cent from Coffs Harbour and he said, "No, we could not say that." So that is that.

I have a friend in the tackle industry. Shortly after the marine park—there was a lot of fear around that period of time as well as to where it was all going to lead us—he said he had the best December he has ever had. He is not a supporter of the marine park but he runs a tackle shop. Again, I cannot be too accurate but that is just my feeling. Really, I think it could be turned around and used as a marketing tool in the future. I think it may have some attraction—I do not know—maybe to overseas people. If I were in tourism, that is what I would do.²⁸⁴

- 4.146** The NSW Government submission notes that research has shown increasing tourism in regions including marine parks. While it is not possible to attribute this solely to marine park establishment it confirms that overall declines have not occurred. It did note that visitor surveys conducted at Jervis Bay found that 34 per cent of visitors surveyed indicated that the marine park was the 'sole reason' for their visit, while 80 per cent indicated that it was either an important or very important reason for visiting.²⁸⁵
- 4.147** In evidence Mr Shepherd tendered a number of media articles which commented on the positive state of tourism in the Eurobodalla. Mr Shepherd noted that during the establishment of the Batemans Marine Park the community was concerned about the potential negative impacts of the marine park on tourism, but this did not eventuate:

Some were predicting very significant declines. I would like to table data provided by Eurobodalla Tourism, which show that this is not the case. Tourism to Eurobodalla actually increased following the implementation of the zoning plan in 2007. This occurred in a weak domestic tourism market, which has contracted significantly over the last decade. You will note that there has been some contraction of tourism to Eurobodalla in the last year or so. This mirrors a broader downturn in tourism linked to the global economic crisis and cannot be attributed to the marine park.²⁸⁶

- 4.148** The Independent Review of Marine Park Science in NSW noted that with respect to both the Port Stephens-Great Lakes and Batemans Marine parks, that the growth in population in these areas over the years since the declaration of their respective parks has brought a substantial stimulus to the local economy, but it cannot be determined whether the marine park was a motivation for the influx of population:

[socio-economic] Impact assessments have been undertaken on the Port Stephens-Great Lakes and on Batemans Bay MPAs to estimate the economic impact of the reduction in commercial activities in these MPAs on the surrounding regional economies. These have been done well, despite incomplete or insufficient data

²⁸⁴ Mr Clarke, Evidence, 4 May 2010, p 27.

²⁸⁵ Submission 1007, p 16.

²⁸⁶ Mr Shepherd, Evidence, 26 May 2010, p 3.

availability about fishers' catches and income from fishing and the charter boat industry. It is particularly interesting to find that, in both these studies, the growth in population in these areas over the years since the declaration of the MPA has brought a substantial stimulus to the local economy which has more than compensated for the decline in commercial activities. Unfortunately, no data is available to determine if/whether the MPA was a specific motivation for the influx of population.²⁸⁷

- 4.149** It is clear that local businesses that rely specifically on the patronage of visiting fishers will suffer if that patronage drops. Other local businesses may not suffer if the drop in visiting fishers is offset by an increase in other types of visitors.
- 4.150** It is acknowledged that there is a perception among many sections of the community that there are little or no recreational fishing opportunities within marine parks. In December 2009 the NSW Government published the document *Recreational Fishing in NSW marine parks* in an attempt to counter this perception and to lure back recreational fishers to marine parks. There was evidence that fishing patronage in the Batemans Marine Park has decreased and that businesses that relied upon this have suffered.²⁸⁸

Small vessel owners

- 4.151** A concern was raised that the closure of some areas might tempt some boat owners to travel further out to sea in inappropriately sized vessels. Mr Davis raised the fact that the close to shore islands in the Batemans Bay area had been included in sanctuary zones:

Just outside Batemans Bay are the Tollgates. That is now a sanctuary zone. Is it Jimmy's or Black Rock, that is also tied up in a sanctuary zone. They are accessible spots that people in small boats could get out to on most occasions. They are no longer. You cannot fish in those areas any more. So, if you only have a small boat you have to go further out from Batemans Bay or go and put in somewhere else.²⁸⁹

Open water kayak fishers

- 4.152** The Committee received evidence from an open water kayak angler, Mr Dan Bode, who was a user of the Cape Byron Marine Park. Mr Bode said that the zoning and species bans within the Park when coupled with factors such as paddling distances to legal reefs, wave forces and currents failed to encourage his participation as a park user.²⁹⁰
- 4.153** Mr Bode was not resident in the area when the original zoning plan was developed, and thus did not participate in the process. However, he did have a meeting with the Manager of the Marine Park in 2008 to discuss the impact of the current zoning and to identify possible changes that would assist kayak anglers. Mr Bode said he was advised that no changes could be made until the next review process in 2012, where the issues he raised could be considered.²⁹¹

²⁸⁷ *Marine Park Science in NSW – An Independent Review*, p 18.

²⁸⁸ Ms Stockman, Evidence, 26 May 2010, p 33; Mr Tait, Evidence, 30 August 2010, p 57.

²⁸⁹ Mr Davis, Evidence, 27 May 2010, p 64.

²⁹⁰ Mr Dan Bode, Evidence, 15 June 2010, p 1.

²⁹¹ Mr Bode, Evidence, 15 June 2010, p 4.

- 4.154** Mr Page confirmed he had met with Mr Bode just after the current zoning plan came into effect. He advised that no representations on the needs of kayak fishers were made during that consultation process, because, he ventured, it was a relatively new sport. Mr Page said that when the next review commences in twelve months the issues raised by Mr Bode would be considered.²⁹²

Spearfishers

- 4.155** Representatives of the Underwater Skindivers and Fishermen's Association (USFA) advised that their members are generally restricted to diving to depths of 20 metres and therefore favour shallow rocky areas. They therefore are greatly affected by sanctuary zones which focus on shallow rocky reefs:

A lot of those sanctuaries take out a lot of that shallow water area that our divers can go to safely, and that has a major impact on us. A sanctuary might not look bad when it goes three miles out to sea, but when your 20-metre line is only 20 metres off the rocks, it has a major influence on us.²⁹³

- 4.156** Mr Adrian Wayne, Vice President, Underwater Skindivers and Fishermen's Association, also referred to the need to have access to safe shallow reef water between 5 to 10 metres for young divers learning the sport. He said that current zoning combined with access restrictions meant there was virtually no capacity to teach young divers within marine parks.²⁹⁴

- 4.157** In particular the USFA was critical of the fact that spearfishing is prohibited within the Lord Howe Island Marine Park – the only type of fishing to be so prohibited. The User's Guide to the zoning plan for the Lord Howe Island Marine Park explains the ban:

Spearfishing is prohibited within the Lord Howe Island Marine Park. A large number of coral associated fish are particularly vulnerable to speafishing. Additionally, spearfishing is not compatible with many of the aquatic activities that are significant to the tourism based economy of the area.²⁹⁵

- 4.158** Mr Wayne said that prior to the declaration of the marine park there were records of spearfishing occurring on the Island for the previous 50 to 60 years.²⁹⁶ Mr Wayne believed the decision to prohibit spearfishing was made because the majority of the population of Lord Howe did not favour the sport. He lamented that NSW Fisheries did not champion the cause

²⁹² Mr Page, Evidence, 15 June 2010, p 56.

²⁹³ Mr Oliver Wady, Executive Committee Member, Underwater Skindivers and Fishermen's Association, Evidence, 27 April 2010, p 34.

²⁹⁴ Mr Adrian Wayne, Vice President, Underwater Skindivers and Fishermen's Association, Evidence, 3 September 2010, p 48.

²⁹⁵ Department of Environment, Climate Change and Water, *User's guide to the zoning plan 2004: Lord Howe Island Marine Park*, Marine Parks Authority, 2004, p 39.

²⁹⁶ Mr Wayne, Evidence, 3 September 2010, p 46.

of spearfishers in the marine park zoning process.²⁹⁷ The USFA stated that it would be preparing a submission, in which they are seeking allowance for spearfishing on a negotiated basis, for the next zoning review for Lord Howe Island.²⁹⁸

Scuba divers

4.159 While the recreational pastimes of scuba diving/snorkeling and fishing are not mutually exclusive, the amenity of either pastime is affected by the proximity of the other. There was some resentment towards scuba divers on the part of recreational fishers, partly borne out of scuba diver support for sanctuary zones.

4.160 Dr Kelaher, Manager, Batemans Marine Park said:

We are really lucky in the Batemans Marine Park; we have lots of islands that are available for people to use and be around. So there can be a combination of accessible islands and less accessible islands for fishing activities, although all islands are available for diving, snorkelling and wildlife appreciation.²⁹⁹

4.161 The Committee notes that in some marine parks there has been a significant effort to ensure recreational fishing is not restricted by the conflict between game fishing and scuba diving. Mr Carr stated to the Inquiry:

The Tubes is a very popular land-based game fishing spot. You can actually catch marlin off the rocks there. It is one of the very few spots in Australia where that can occur. There is a specific season for that to happen, from November through to May. It is also a very popular diving spot.

Those two activities conflict with one another – divers in the water and people casting game fishing gear into the water at the same spot. Those two user groups conflict with one another. The anchoring restriction that has been placed there is seasonal. Between November and May there is no anchoring in that area so that the game fishing fraternity can have safe access to the area. For the rest of the year the anchoring restriction does not apply so that people can anchor and scuba dive in that area.³⁰⁰

Fishing club competitions

4.162 Many well patronised fishing competitions are held in marine parks. In evidence Mr Max Castle, Past President and Life Member, Sea Bees Boating Club raised concerns regarding potential changes to regulations concerning holding fishing competitions within marine parks and the requirement for a public liability insurance waiver:

We are also concerned about the public liability insurance waiver that is required under the existing New South Wales marine parks permit. A copy has been provided today. This requirement releases the marine parks from any insurance claim in respect

²⁹⁷ Mr Wayne, Evidence, 27 April 2010, p 35.

²⁹⁸ Mr Wayne, Evidence, 3 September 2010, p 47.

²⁹⁹ Dr Kelaher, Evidence, 26 May 2010, p 7.

³⁰⁰ Mr Carr, Evidence, 29 April 2010, p 9.

of injury, loss or damage. This may be potentially in conflict with the insurance arrangements for fishing clubs. Our club will need to seek advice if this requirement is included in any new permit system. We are putting that before the Committee for inquiry. As Mr Haste advised the Committee, fishing competitions are being considered and a permit is part of that consideration. We ask the Committee to examine these developments closely.³⁰¹

- 4.163** Given the timeframe of the Inquiry the Committee was unable to give attention to the development of this issue. The Committee urges the Marine Park Authority to consider the concerns of recreational fishers and consult closely with them regarding the hosting of fishing competitions within marine parks.

Other licensing issues

- 4.164** A number of inquiry participants,³⁰² including Mr Hayden Capobianco, Member, South Coast Fishing Club Association, from the recreational fishing sector suggested that recreational divers should be required to pay a fee similar to the recreational fishing licence:

Recreational divers are using that resource for free. If you just look at Jervis Bay Marine Park, recreational divers have 20 per cent of that area for their own personal use. Are they putting anything back into that resource? We [fishers] are paying tax, we are putting into fish stocking. We are paying for Fisheries officers. We are paying for habitat regeneration. So, we are paying to help to rebuild the resource and the Fisheries, but are other groups paying for it?³⁰³

- 4.165** The Committee notes that any business, including scuba dive charters, operating within a marine park has to be licensed. The Committee also notes that the December 2000 report *Marine Park Science in New South Wales - an Independent Review* recommended that research was required to assess the impact of activities such as concentrated scuba diving on local biodiversity.

- 4.166** Other benefits of recreational fishing licences were also expressed, in particular Mr Cheers, who noted:

I believe that the public own the fish and that the commercial fishermen were put there so that the public could buy those fish. A few recreational fishers should not have a hold of the world's harvest. The everyday housewife has to go to a fish shop and pay \$50 just for a feed o fish and prawns, whereas a recreational fisher can do that every day for a whole year and take \$200 worth in one day for the price of a recreational fishing licence. I believe that members of the public are missing out.³⁰⁴

³⁰¹ Mr Max Castle, Vice President, Sea Beas Boating Club, Evidence, 3 September 2010, p 55.

³⁰² For example, Submission 913, Council of Freshwater Anglers, p 5.

³⁰³ Mr Hayden Capobianco, Member, South Coast Fishing Club Association, Evidence, 29 April 2010, p 24; see also Mr Bob Penfold, Evidence, 4 May 2010, p 2.

³⁰⁴ Mr Cheers, Evidence, 4 May 2010, p 45.

Compliance with marine park regulations

4.167 There are a number of regulations governing activity within marine parks. Large fines apply for breaches of these regulations, particularly with respect to illegal activity within sanctuary zones. Three main issues were raised during the Inquiry. First the perception that recreational fishers were being unfairly prosecuted for unintentional breaches. Second, the difficulty in identifying zone boundaries within marine parks, and, thirdly, the size of fines compared with other compliance regimes.

Perception of zealous enforcement

4.168 There was a widespread belief among sections of the recreational fishing sector that marine park regulations were rigidly and over-zealously enforced. It became clear that this belief was based much more on hearsay and inference than it was on fact. It was also evident that this belief was most strongly held by fishers who did not frequent marine parks.

4.169 Among inquiry participants who resided in or near marine park areas, there was a difference of views on the rigidity with which compliance was enforced. In evidence, Mr Harnwell said that he knew of plenty of people who have been booked for a first offence with no warning.³⁰⁵ Mr Clark, while critical of the efficacy of off-shore zoning boundaries and the difficulty for fishers to ascertain whether they were within a prohibited fishing zone, praised the approach taken by the manager of the Batemans Marine Park:

I suppose on one side we are very lucky that we have a marine park manager who is not coming down with an iron fist on this because people are stupid when it comes to oceans. I have had many years on the ocean myself and I have worked it out, but 99 per cent of the people who fish here do not.³⁰⁶

4.170 During the course of the Inquiry reference was made on occasion to as it emerged a story of 300 people being unfairly fined \$500 each in the PSGLMP over the Christmas holiday period.

4.171 At the public hearing in Port Macquarie Mr Hemmings referred to and tendered a copy of a newspaper article from the *Manning River Times* which would appear was the primary basis for the currency of this general misconception:

Because we do not yet have a marine park at Hat Head, most of our evidence comes from face-to-face meetings with people, reports in the media, et cetera. We also attend rallies and meetings where people get up and relate their experiences. In the weeks following the establishment of the Port Stephens marine park, there was a newspaper report in the *Manning River Times*, which I think is the name of the paper, that over the Christmas and New Year period 300 people were fined \$500 each for being in the marine park sanctuary zone. As a normal everyday person I find it hard to believe that 300 people knowingly and willingly went out to break the law. We might all speed. I

³⁰⁵ Mr Harnwell, Evidence, 29 April 2010, p 14.

³⁰⁶ Mr Clark, Evidence, 26 May 2010, p 50.

try not to speed but, at times, I drift up over the speed limit and I accidentally break the law. I cannot believe that 300 people, holidaymakers, broke the law. There was a quote in that news clip, which I have with me somewhere, from one of the management staff of that marine park.³⁰⁷

- 4.172** The Committee can understand public disbelief and anger if this had actually occurred. The text of the tendered article is reproduced below:

Fishing in sanctuary zones: As many as 300 separate cases of fishers breaking the law in relation to the Port Stephens-Great Lakes Marine Park have been detected since Boxing Day and the majority are locals.

According to park manager Max Haste, one of the major problems is local people fishing in the well-publicised sanctuary zones at Seal Rocks and The Pinnacle off Cape Hawke, where fishing is not allowed.

In one case fishing rods and other equipment were seized – that's on top of the \$500 fine.

"It makes for quite an expensive day out," Mr Haste said.³⁰⁸

- 4.173** The Committee understands the initial interpretation of the article made by Mr Hemmings, and it was the same interpretation obviously made by many others.³⁰⁹ The Committee sought advice from Mr Haste on his knowledge of the article. Mr Haste advised that he had not been interviewed by the paper in question for the article. He added that 300 was broadly the number of offences detected over the December 2008 January 2009 period:

300 people were not fined during this period for sanctuary zone offences. In fact 300 people in total, have not been fined by marine park staff across the range of marine park offences, in the total period since the Marine Park zoning plan commenced.³¹⁰

- 4.174** In evidence Mr Haste advised that with respect to compliance the focus was on education and advice with prosecution undertaken only when an offender deliberately did the wrong thing. Since the introduction of the zoning plan in April 2007, 799 caution notices have been issued for fishing in sanctuary zones and approximately 130 penalty notices issued for the same offence.³¹¹ Mr Haste stated:

No doubt you would be aware from the submissions that compliance is one of our big issues in this area. Obviously our aim is to maximise voluntary compliance. Achieving that is sometimes difficult, but we focus on education and advice with penalty notices and/or prosecution undertaken only when an offender deliberately did the wrong thing or had the knowledge and/or opportunity to avoid committing the offence but

³⁰⁷ Mr Hemmings, Evidence, 5 May 2010, p 15.

³⁰⁸ Tabled document, Hat Head Bowling and Recreation Amateur Fishing Club, Article from the Manning River Times, '*Fishing in sanctuary zones.*'

³⁰⁹ In correspondence following his appearance Mr Hemmings noted the ambiguity of the text and that it did not state that 300 people were fined, Answers to questions taken on notice, Mr Peter Hemmings, Hat Head Bowling & Recreational Amateur Fishing Club, 24 May 2010, p 1.

³¹⁰ Answers to written questions taken on notice, Mr Max Haste, Manager, Port Stephens – Great Lakes Marine Park, 7 June 2010, Question 2, p 2.

³¹¹ Mr Haste, Evidence, 4 May 2010, p 35.

chose not to do so. Let me give an example of that compliance. Since the introduction of the zoning plan on 21 April 2007, we have issued 799 caution notices to people for fishing in sanctuary zones and approximately 130 penalty notices for the same offence. It is roughly a ratio of eight to one. We are also authorised under the Fisheries Management Act, the National Parks and Wildlife Act, the Protection of the Environment Operations Act, and the Historic Shipwrecks Act.³¹²

- 4.175** With respect to incurring a penalty notice for a first infringement, Mr Haste advised that this would be more likely if someone was caught fishing at long-standing, well-known sanctuary areas such as Flypoint which has been closed to fishing for 28 years.³¹³
- 4.176** The Committee sought clarification on how penalty notices are applied when there are a number of persons on the one vessel within a sanctuary zone. Mr Haste advised that while all persons on board are equally guilty at law, the Marine Park Authority had been applying the approach where the skipper of the vessel assumes prime and sole responsibility.³¹⁴
- 4.177** The Manager of the Cape Byron Marine Park said he had noted a growing number of reports from members of the public of illegal activities within the Marine Park. Mr Page said that these days the majority of successful prosecutions of wrongdoers in the marine park are the results of 'tip-offs' from members of the public.³¹⁵
- 4.178** To lay this issue to rest the Committee sought details on the number of cautions and infringements issued by various marine parks. From the data provided it is clear that the focus is on issuing cautions and that the overall number of penalty notices issued is far less than believed to be the case.
- 4.179** The Committee was provided with a copy of the NSW Marine Parks Authority Compliance Report for the year July 2009 to June 2010. The report notes that across all marine parks, 1200 enforcement actions were issued comprising 826 written cautions, 343 penalty notices, and 31 prosecutions.³¹⁶
- 4.180** The Committee was concerned that the perception of over-zealous enforcement was likely to persist, and unnecessarily deter people from visiting marine parks, unless there was public access to factual data.
- 4.181** In evidence the Committee explored the possibility of whether information on the number of cautions and penalty notices issued for offences could be placed on the Marine Park Authority's public website as a means of both addressing the perception of over-zealous enforcement, and educating current and potential park users of where they particularly need to be informed of the relevant regulations and restrictions.
- 4.182** As the Committee was advised there was no impediment to providing this information it recommends that this information be made publicly available as soon as practical

³¹² Mr Haste, Evidence, 4 May 2010, p 35.

³¹³ Mr Haste, Evidence, 4 May 2010, p 40.

³¹⁴ Mr Haste, Evidence, 4 May 2010, p 39.

³¹⁵ Mr Page, Evidence, 15 June 2010, p 47.

³¹⁶ Answers to questions taken on notice during evidence, Mr Wright, 3 September 2010, Appendix 1, p 2.

Recommendation 6

That the Marine Park Authority place statistics and explanatory information regarding the number and type of cautions and penalty notices issued on either its public website or on each individual marine park's public website.

Possessing fishing gear within sanctuary zones

4.183 It is illegal to fish in a sanctuary zone, however it is not an offence to be in possession of fishing gear while within or travelling through a sanctuary zone provided certain regulations are complied with. The practical application and compliance with these regulations was raised throughout the Inquiry.

4.184 In the early stages of the Inquiry there was an apparent lack of understanding of the regulations relating to being in possession of fishing gear while travelling through a sanctuary zone. Mr McGlashan said that he understood that the issue was being examined, but he was unaware of any outcome:

Port Stephens was a huge thing: people at the ramp were getting booked. They are not deliberately doing anything. They are not even fishing. They are driving through it. I think they are trying to change that, but they have not sent me a press release on anything to that effect, as such. But, to me, that should all be abolished.³¹⁷

4.185 At the 4 May public hearing Mr Haste outlined the substance of the regulations:

A couple of other points I would like to make about possession of fishing gear in sanctuary zones. Yes, you can launch at Little Beach with your gear on the rod holders all rigged up and steam through the sanctuary zone. That is not an offence. You can also anchor, moor or be aground in a sanctuary zone and have fishing gear, it is just that the rods have to be unrigged, no tackle on the lines.³¹⁸

4.186 Mr Haste tendered a copy of an explanatory leaflet entitled *Defences for the possession of fishing equipment in marine park sanctuary zones*.³¹⁹ Mr Haste advised that the leaflet was posted on the Marine Parks Authority website on the day of the hearing in an attempt to raise the profile of the issue that he noted had been around for over twelve months.³²⁰

4.187 With respect to transiting a sanctuary zone the document states:

Fishers may transit through any sanctuary zone (for example travelling from one place where the fishing gear can be legally used to another place the gear can be legally used) with:

³¹⁷ Mr McGlashan, Evidence, 27 April 2010, p 61.

³¹⁸ Mr Haste, Evidence, 4 May 2010, p 37.

³¹⁹ Tabled document, Port Stephens – Great Lakes Marine Park, *‘Defences for the possession of fishing equipment in marine park sanctuary zones’*.

³²⁰ Mr Haste, Evidence, 4 May 2010, p 37.

- Fishing rod 'fully rigged' provided no part of the line is immersed in the water and no hook is baited
- Spears provided they are stowed
- Nets provided no part of a net is in the water.

4.188 When anchored, moored or aground in sanctuary zone all tackle must be removed from a rod leaving only a bare line on the rod. At the 3 September hearing Mr Castle argued that the regulations should be further amended to allow, in these circumstances, the retention of a swivel clip on the line. Mr Castle argued that the knots required to secure a swivel clip to a fishing line are intricate and difficult to do and undo when at sea, invariably requiring fishers to cut the lines above the knots in order to comply with the regulations³²¹

4.189 It is a simple action to attach and re-attach fishing tackle to a swivel clip. Mr Castle said that fishers cannot see any rationale for the prohibition of swivel clips while stopped in a sanctuary zone. The Committee believes this is an example of where greater consultation is required between I & I, the MPA and ACoRF.

Identifying zone boundaries within Marine Parks while at sea

4.190 User guide zoning maps are provided for marine park users. The boundaries of the various zones are identified by a variety of means on land and at sea. When at sea zone boundaries are identified by either buoys (in inshore waters), reference to land-based landmarks, reference to latitude-longitude as indicated on zoning maps, or reference to sea-bed contour lines.

4.191 However, being able to determine your location with zone boundaries continues to be an issue for many sea-going recreational fishers.

4.192 In evidence, Mr Stephen Dial, moderator, *NewcastleFishing.com*, raised his concerns with the accuracy of the underlying mapping system on which zone boundaries were based.³²² Mr Haste noted that zoning maps can not accurately indicate the location of a sea-bed contour line, however this can be determined by use of a sounder:

I mentioned the maps versus the meets and bounds issue and the legal descriptions. Someone who addressed the committee earlier mentioned the contoured zone. We use contours quite extensively throughout the park—the yellow and blue zones. We work on the 40 metre contour. They are saying you cannot draw a line on the map to exactly say that it is there. That is true, you cannot. But what you can do when you are on the water is look on your sounder and if it is 40 metres you are right on the line. If you are fishing in 45 metres with a trawler you are okay. If you are fishing at 35 metres we will most likely be taking you to court.³²³

4.193 Mr Haste advised that the 40 metre contour is based on the median low tide. While the prevailing tide can affect the ability to specifically identify the contour, the practical application of the regulation is intentionally very loose and that in situations where trawlers are close to the contour the Authority would approach and advise in the first instance.

³²¹ Mr Castle, Evidence, 3 September 2010, pp 55-56.

³²² Mr Stephen Dial, Moderator, *NewcastleFishing.com*, Evidence, 4 May 2010, p 13.

³²³ Mr Haste, Evidence, 4 May 2010, p 37.

- 4.194** The use of off-shore curved boundary lines varies among marine parks. Mr Castle said that curved boundary lines cause problems for fishers and advised the Committee that his organisation has called for increased use of straighter boundary lines:

An ongoing complaint has been received and discussed at the inquiry concerning curved lines used to identify some sanctuary zones in marine parks. It is difficult for the average fisher to easily identify their location, and straight lines have been requested, but it appears to be falling on deaf ears. The Port Stephens Marine Park manager advised the inquiry that some of the curved sanctuary lines are located on the contour depth lines. Forty metres was given as an example. This is the first time we have heard this explanation and this information is not provided on the marine park maps. We requested this be included to assist with compliance.³²⁴

- 4.195** However the Committee notes the map for the PSGLMP does indicate the use of the 40 metre depth contour to delineate the boundary of the off-shore habitat protection zone. The Committee was also advised that efforts would be made to straighten zone boundaries wherever possible:

In terms of that inadvertent fishing issue and picking up on your point earlier about working with software providers to put the zone boundaries on a GPS layout, as part of the zone plan review process we are going through now for Solitary Islands and Jervis Bay we have heard the message from a lot of stakeholders about enforceability and compliance and it being difficult sometimes to know where you are in relation to a sanctuary zone. One of the things the Government is proposing is part of the zone plan review process for Jervis Bay and Solitary Islands—and certainly we will be continuing this for other marine parks in the future—is to look at straightening up zoning boundaries so that they are easier to identify in the water and, where possible, aligning them with land markers or placing buoys to deal with some of these issues.³²⁵

- 4.196** The Committee endorses the actions proposed to assist users in identifying zone boundaries. However, it notes that it is not necessarily an easy thing to use sighted landmarks to determine your position and this can be exacerbated in conditions of poor visibility. It is also the case that new or infrequent users of marine parks may experience difficulty in unfamiliar locations.

- 4.197** Zone boundary points can be identified by GPS marks (which are given on zone user guide maps) but are not displayed on GPS screens. The Committee was keen to ascertain whether approaches had been made to software providers to display marine park zone boundaries on GPSs used by recreational fishers. Mr Wright indicated that the DECCW had been in discussions with GPS software providers on this matter.³²⁶

- 4.198** Mr Haste agreed that being able to import a layer of zone boundaries onto a GPS would assist recreational fishers being able to know exactly where they are in relation to zone boundaries:

Absolutely. I bought a card the other day for my own private vessel. It has all the zonings for the Great Barrier Reef on the card. It is a Navionics card. We have been to Navionics personally. I have been around the last two boat shows in Sydney. I have spoken to every charter company there and offered our data. We have met with the

³²⁴ Mr Castle, Evidence, 3 September 2010, p 56.

³²⁵ Mr Wright, Evidence, 19 April 2010, p 31.

³²⁶ Mr Wright, Evidence, 19 April 2010, p 6.

Australian manager of C-map offering our data. Navionics had a problem with our licensing agreement and we are still working with them and are going to offer it to them, but that is the answer. If we can get that data onto the charts—³²⁷

- 4.199** Mr Cross was enthusiastic about the prospect of technology that would display shaded zone boundaries. He believed that it would assist both public enjoyment and compliance enforcement:

I highlighted today on board the vessel that even on our GPS—it is a relatively new vessel and our GPS is certainly new; the card we bought is a typical what is called a south-east coast card—actually highlight the special marks that designate the boundaries of a sanctuary zone. I think we all agreed today that, with technology, the companies that provide these cards that go into the sounders could be such that they actually highlight the special marks that designate a sanctuary zone, why not shade in the sanctuary zones as well? I thought that was a very good comment that came out of today. I think it would make it so easy for the recreational and commercial users. There would be no excuses. I truly believe that the sanctuary zones are abused by a minority. Policing of those and accusing those must be a nightmare. But if the technology was such that it is either pink or yellow, and it is as simple as that, even if you did not know what the science said, there is no excuse. The GPS or sounding technology could be improved. I thought that was a very good comment today.³²⁸

- 4.200** The Committee believes that the ability to display marine park zone boundaries on GPS systems provides the best solution to the current difficulties faced by recreational fishers. It notes the approaches made by departmental officers to date and believes the matter should continue to be pursued.

Recommendation 7

That the Department of Environment, Climate Change and Water finalise negotiations with software providers with a view to developing a means by which marine park zone boundaries can be displayed on GPS systems used by recreational fishers.

Marine Park Advisory Committees

- 4.201** The Marine Park Advisory Council and local marine park Advisory Committees are established under Part 6 of the *Marine Parks Act 1997*.
- 4.202** The Advisory Council advises the Marine Parks Authority and jointly advises the Minister for Primary Industries and Minister for Climate Change and the Environment on marine park matters from a state-wide perspective. The local Advisory Committees for each marine park advises on zoning plans and management for their particular park. Local Advisory Committees have a statutory role in developing and commenting on draft zoning plans, zoning plan review reports and marine park operational plans.

³²⁷ Mr Haste, Evidence, 4 May 2010, p 40.

³²⁸ Mr Cross, Evidence, 29 April 2010, p 69.

- 4.203** Representatives of key stakeholder groups, including recreational fishers, are members of the Advisory Council and local Advisory Committees. Besides recreational fishers, members include representatives of the Australian government, conservation, marine science, Aboriginal people, tourism industry, commercial fishers, scuba divers and, for Advisory Committees, local councils.³²⁹
- 4.204** The role and efficacy of the Marine Park Advisory Council was not an issue raised with the Committee to any degree that required further examination. However, issues were raised with respect to the local marine park advisory committees, most notably the make-up of their membership, and the openness and accountability of their deliberations. Their role and influence in developing draft zoning plans was examined earlier in this chapter.
- 4.205** Appointment to advisory committees is by nomination and Ministerial approval. The various stakeholder groups represented on an advisory committee can and do vary from one marine park to another. For some marine parks the recreational fishing representative covers all types of fishing. If a particular recreational fishing stakeholder group does not have a representative this harbours the feeling that their issues are not adequately taken into consideration.
- 4.206** The Manager, Jervis Bay Marine Park acknowledged that not all recreational fishing groups can be adequately represented by a single person. Mr Carr said that advice is sought from relevant groups when specific issues arise:

I should point out too, acknowledging that all stakeholders cannot be adequately represented by a single representative, we also conduct focus group meetings with particular groups if there is an issue particular to that group or, alternatively—and we have done this with spearfishing in the past—if the advisory committee is discussing an issue particular to spearfishing we will invite a spearfishing representative along.³³⁰

- 4.207** The Committee was advised that spearfishers are directly represented on only one marine park advisory committee – Solitary Islands.³³¹ Representatives of the USFA raised the fact that slipper lobsters were allowed to be taken in some marine parks but not in others. They said this caused confusion among their members leading some to unintentionally committing offences. The USFA said this inconsistency, which they believed was an anomaly, was due to the fact that they do not have direct representation on all marine park advisory committees:

Members are getting fined down there. They had a review, which was about two and a half years ago. We did not even get consulted as a group with that because we do not have any representation on the committee. We went down on a separate matter for a meeting with them and they said, "Is everything fine?" They did not mention to us that there was an issue with slipper crays and that they were starting to fine people. They did not mention that at all. I would not be surprised to find out that they have once again renewed it without even discussing with an organisation such as ourselves that that limit is there.³³²

³²⁹ Submission 1007, pp 14-15.

³³⁰ Mr Carr, Evidence, 29 April 2010, p 5.

³³¹ Mr Peter Saunders, President, Underwater Skindivers and Fishermen's Association, Evidence, 27 April 2010, p 34.

³³² Mr Wady, Evidence, 27 April 2010, p 33.

4.208 The Committee agrees that there are many types of recreational fishing and it is difficult, if not impossible, for a single representative to adequately represent each sector and the issues specific to them. It also notes that notwithstanding the best intentions by management, specific groups might not be consulted on issues of concern to them. This problem can be compounded when interested parties are not aware of the issues being considered by advisory committees and cannot, therefore, suggest their input should be sought.

4.209 There was criticism of the lack of openness surrounding the deliberations of advisory committees whose members are bound by confidentiality clauses. The Committee heard evidence from Mr Ian Smith, one of the two recreational fishing representatives on the current Batemans Marine Park Advisory Committee. Mr Smith was also the recreational fishing representative on the original advisory committee. He said that advisory committee procedures had improved:

There have been continual improvements all the time. With communications with the previous committee, we were bound by confidentiality clauses, which personally I took quite seriously, but I do not think everyone had the same serious approach that I did. With the new committee of which I am now a part, we had our first meeting last week and I think we have had a significant improvement in the process because we are now going to get minutes of the meetings within a fortnight and we will have the opportunity to comment on their correctness and confirm the minutes, and then they will be put on the website for the general public to see these minutes.³³³

4.210 Mr Smith agreed with the proposition that it could be helpful if the minutes were also emailed to the relevant local fishing clubs to assist with the spread of information related to the management of marine parks. The Committee is also of the view it would be beneficial if the agendas for advisory committee meetings were made public.

Recommendation 8

That agendas and minutes of marine park advisory committees be published on the Marine Park Authority's website or the website of individual marine parks.

4.211 The Committee further notes that the decision to appoint and base a scientific research officer within four of the five mainland marine parks will provide additional assistance to the advisory committees when considering future zoning reviews.

Managing land-based impacts on Marine Parks

4.212 The aim of marine parks is to conserve marine biodiversity and marine habitats. As discussed in the previous Chapter one of the most significant threat to marine biodiversity and marine habitats is posed by land-based impacts. While 58 per cent of marine park boundaries abut terrestrial national parks, they are still subject to land-based threats.

³³³ Mr Smith, Evidence, 26 May 2010, p 41.

- 4.213** A common argument from critics of marine parks is that the focus is on the threat posed by fishing with little or no focus on other threats. A number of participants were critical of the fact that not enough was done to address obvious issues prior to the parks being established. In evidence Mr Ken Thurlow, ECOfishers NSW, highlighted the fact that stormwater outlets continue to discharge into critical waters of marine parks without action being taken:

The oceanic species of *Zostera* has just been declared a threatened species. There is a beautiful patch of that in the corner of the Bream Hole at Lennox Head. There is a stormwater pipe in front of it. It is continually being smothered by sediment. The Marine Parks Authority does not do anything about it. It is a major nursery area for our marine species.³³⁴

- 4.214** Mr Ric Cumming, Southern Marine Park delegate, Underwater Skindivers and Fishermen's Association, was critical of what he saw as the lack of attention to water quality issues prior to the establishment of the Batemans Marine Park:

As a professional officer with the Environment Protection Authority I have been involved in managing regional sewage management strategies prior to the establishment of the Jervis Bay Marine Park, the Solitary Islands Marine Park and the Byron Marine Park, for which the New South Wales Government contributed significant funding to those council areas to resolve those sewage issues—in other words, get rid of the ocean outfalls prior to creating the marine park covering those areas. No such thing happened in this area. This marine park has been created over, as I understand it, six ocean outfalls. Water quality has been totally ignored as a key habitat within this marine park.³³⁵

- 4.215** Local marine parks have a role in environmental impact assessments and commenting on applications for developments adjacent to marine parks that may have a downstream effect. They also have a role in approving commercial operations within the boundaries of marine parks.

- 4.216** As discussed in Chapter 3 the impact of acid sulphate soil is a significant threat. The Manager, PSGLMP, said that its impacts were felt within the park:

It is more so the private landholdings that have been around for probably 100 years or so. The drainage unions go back a long time. These are low-lying small hobby farms or large residential home sites that were drained to provide liveable space, but when it floods they are not very liveable. So they created drainage systems that dig down into the acid sulfate soil. During dry periods they oxidise and when it floods again it flushes out into the marine park. That is a legacy that we have to address, not only here but also statewide.³³⁶

- 4.217** Mr Haste advised that the marine park was involved in joint agency meetings to address this issue. The Committee was also provided with an example of how the Marine Park Authority can play a role in ensuring the parks are not impacted upon by proposed developments:

The Marine Parks Authority is involved with the assessment of proposed developments that are within marine parks and that affect marine parks (sections 19

³³⁴ Mr Ken Thurlow, EcoFishers NSW, Evidence, 15 June 2010, p 78.

³³⁵ Mr Cumming, Evidence, 26 May 2010, p 20.

³³⁶ Mr Haste, Evidence, 4 May 2010, p 43.

and 20 of the Marine Parks Act). For example, in 2010 the Authority worked on a proposed development at Wooli, directly adjacent to the Solitary Islands Marine Park, and expressed concerns about impacts on the marine environment and Marine Park that were likely to result from the sewage treatment option proposed. Following negotiation, a modified proposal with improved sewage treatment and a net reduction in the discharge of pollutants for the entire proposed development was approved in mid 2010.³³⁷

- 4.218** The Committee also notes, as examined in the previous chapter, that the NSW Government is involved in programs such as the Country Towns Water Supply and Sewerage Program, sewage treatment upgrades and reclaimed water management schemes some of which have reduced downstream effects on a number of marine parks.

Committee comment

- 4.219** The Marine Parks Authority through the marine parks does have an effective voice in commenting on development applications that could have downstream effects. The Committee heard evidence of some marine parks actively engaging with stakeholders to address long-standing issues.
- 4.220** The Committee also understands the frustration of some stakeholders who see no apparent attention given to some obvious impacts such as stormwater and other discharges. It is hard to reconcile the concept of the boundaries of a marine protected area encompassing infrastructure that degrades water quality.

Recommendation 9

Marine Park Authority, with the assistance of the NSW Environmental Protection Agency, identify land based licensed and unlicensed point source and non-point source discharges and pollution into marine protected areas and prioritise them in terms of need for remedial action, and continue to provide funding to assist local councils in remediating these discharges.

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- 4.221** Some inquiry participants also argued that the Marine Parks Authority, because of an ideological disposition to non-intervention, was not dealing in a practical manner with certain issues.³³⁸ Mr Maxwell Frost related an example concerning Smiths Lake where he saw the Authority ignoring practical realities with the consequence that harm was being caused to the environment:

It is a natural lake landlocked; I think it is technically a lagoon, which opens to the sea only in horrific storms. Man in his wisdom has finally built around there, put sewer lines in around there, it has a lovely little coffee shop and it is a beautiful place. The problem is that when it rains there is nowhere for it to go, so it comes up to a very low level around the foreshores. What happens is that the commercial guys go down

³³⁷ Answers to questions taken on notice during evidence, Mr Wright, 8 October 2010, Question 5, pp 3-4.

³³⁸ For example; Dr Creagh, Evidence, 26 May 2010, p 31.

there and they dig it out, they dig it out by hand. They dig a channel and bang out the lot goes—twice a year usually after heavy rains.

Now the marine parks have come in and said not over their dying bodies will anyone ever be allowed to open that lake again.³³⁹

- 4.222** The Committee notes that decisions to intervene and open intermittently closing and opening lakes and lagoons (ICOLs) need to be taken carefully. Mr Brett Miners, Landscape Manager, Southern Rivers Catchment Management Authority, pointed out that inappropriate opening of and ICOL or estuary itself can be very damaging.³⁴⁰
- 4.223** It is clear that at times difficult management decisions will be required and the relative environmental impact of options for action (or inaction) need to be weighed. This is a case where the basis for management decisions need to be clearly and openly communicated.

Who is best equipped to manage Marine Parks?

- 4.224** The Marine Park Authority established under the *Marine Parks Act 1994* oversees the declaration and management of marine parks. It includes the Director General of the Department of Premier and Cabinet as chairperson and as equal members the directors general of I & I and DECCW. The Authority jointly advises the Minister for Environment and Climate Change, and the Minister for Primary Industries on marine park matters, and considers advice from a marine parks advisory council and six marine-park based advisory committees. The Authority relies on staff in DECCW with assistance from staff in I & I to deliver the marine park program.³⁴¹
- 4.225** During the Inquiry there was some debate on which area within the NSW Government is best equipped to manage marine parks. The issues that were the genesis for this debate included the view that marine parks were in effect being managed as a de facto fishery management tool and the view that the management of marine parks should be the responsibility of a single Minister.

Are Marine Parks de facto fishery management tools

- 4.226** Marine parks are concerned with the conservation of marine biological diversity and marine habitats, of which fish are considered but one element. However, a great deal of the debate on the need for marine parks has grown out of the requirement for the protection of fish stocks, and thus that is why a constraint on fishing within their boundaries is necessary. The focus on this issue has led many critics of marine parks to argue that traditional fisheries management is a far more effective means by which to ensure the sustainability of fish stocks.
- 4.227** The belief that marine parks were focused on fisheries management was widespread among the recreational fishing sector. Mr Roy Privett, General Manager, Boating Industry Association

³³⁹ Mr Maxwell Frost, Evidence, 5 May 2010, p 68.

³⁴⁰ Mr Brett Miners, Landscape Manager, Southern Rivers Catchment Management Authority, Evidence, 26 May 2010, p 66.

³⁴¹ Mr Wright, Evidence, 19 April 2010, p 3.

of NSW, described the establishment of sanctuary zones as the imposition of a new fisheries management tool where more effective, proven alternatives already existed.³⁴²

- 4.228** Mr McGlashan was typical of those who viewed marine park management as encroaching on the responsibility of traditional fisheries management:

Fisheries were doing a very good job beforehand on bag limits and things like that and management, and I do not think we need another group in charge now to be running the same waters. It does not make sense to me.³⁴³

- 4.229** When asked who should manage marine parks, Mr Martin Salter, former UK Parliamentary Spokesperson for Angling, said it appeared to him that marine parks have a strong fishery focus:

It is difficult where it sits. I suppose what I am pointing to here is that it seems to be strange to have your marine parks, which have a very strong fishery focus, in a different department from Fisheries.³⁴⁴

- 4.230** Professor Booth said that in a perfect world fisheries management by itself would be the only requirement to ensure the sustainability of fish stocks. However, in what he saw as the absence of that, he likened marine parks to an insurance policy – a backup for imperfect fisheries management.³⁴⁵ However, Professor Byrne was of the view that the success of both will rely on the existence of the other:

I think the most important thing to state, though, is that marine parks are not gazetted as a fisheries management tool, and they are not a substitute for good fisheries management. If, in the best case scenario, the marine parks are of great benefit to fisheries, that is fantastic. It has been shown in places where fisheries are well managed. First and foremost, manage your fisheries, and then you will benefit from marine parks. It is a win-win situation. One cannot go without the other.³⁴⁶

- 4.231** Mr Toovey, confirmed that marine protected areas are not established for the purposes of management of fish stocks or pelagic species that are targeted by commercial and recreational fishers.³⁴⁷

- 4.232** Mr John Moore, Narooma Sporting and Services Fishing Club, and a former NSW Department of Fisheries employee, acknowledged marine parks in effect manage both fish stocks and habitat. He believes that effective zoning management of the parks requires knowledge of fishing techniques. While he acknowledged that marine park management was learning in this area, he believed that it would never equal the knowledge of the Fisheries section of I & I:

³⁴² Mr Roy Privett, General Manager, Boating Industry Association of NSW, Evidence, 30 August 2010, p 21.

³⁴³ Mr McGlashan, Evidence, 27 April 2010, p 60.

³⁴⁴ Mr Martin Salter, former UK Parliamentary Spokesperson for Angling, Evidence, 30 August 2010, p 17.

³⁴⁵ Professor Booth, Evidence, 27 April 2010, p 9.

³⁴⁶ Professor Byrne, Evidence, 27 April 2010, p 9.

³⁴⁷ Mr Toovey, 3 September 2010, p 8.

You would certainly get much better management of the fish stocks. Marine Parks are two-pronged: they are looking at the habitat and the stocks as well. The simple fact is that Marine Parks do not have an extensive knowledge with regard to fishing techniques, both recreational and commercial. They do not know the impacts in many cases. They are learning, I will give them that, but they do not know the impacts that they will have on the environment. They are going from a period of being very naive and idealistic to getting a little bit of a grasp of what is going on. But I do not think they will ever get there as far as the knowledge that would be required to manage those fish stocks, which Fisheries currently have. In Fisheries in Sydney, you have some excellent people there who know probably more about their fish stocks than just about any other State in Australia.³⁴⁸

- 4.233** The UFSA recommended that in the absence of overall management, Fisheries and Compliance (within I & I) should be recognised as the sole regulator of recreational fishing, including within marine parks.³⁴⁹
- 4.234** The effective protection of fish stocks requires effective management of the entirety of the State's waters. It is true that sanctuary zones offer protection to mobile/migratory fish when they are within these zones. While these fish are within those zones they can play their part in the ecological processes that help shape the marine habitat that is being protected. The ability of these fish to temporarily inhabit these areas is also dependent upon State-wide management.

A single Minister for marine parks

- 4.235** There were calls from across the various inquiry stakeholder groups for all regulatory and policy decisions relating to marine parks to fall under the authority of a single Minister. However, the Minister or departmental area of NSW Government that was recommended as being most appropriate varied. Not surprisingly, stakeholders from the recreational fishing sector believed it should be the Minister for Primary Industries and the Department of Fisheries and Compliance; while stakeholders from conservation groups argued it should be the Minister for Environment and Climate Change.
- 4.236** Mr Fleming asked the Committee to consider the proposal that marine parks come solely under the authority of the Minister for Environment and Climate Change:

As you have heard today, there are two Ministers that need to sign off on things. We think that that is quite inappropriate. We would like to see marine parks come solely under the Minister for the environment. The time delay in getting decisions through two Ministers, particularly Ministers who may not be getting on too well with each other, is all-consuming for the marine parks and incredibly bureaucratic, so I would like this inquiry to consider that proposal.³⁵⁰

³⁴⁸ Mr Moore, Evidence, 26 May 2010, p 58.

³⁴⁹ Mr Saunders, Evidence, 27 April 2010, p 31.

³⁵⁰ Mr Fleming, Evidence, 26 May 2010, p 12.

- 4.237** Mr Cumming, while agreeing with Mr Fleming on the need for one managing department and Minister, believed that Fisheries held the expertise required:

With regard to the two Ministers, I think everyone is aware of the problems there. I was in Grafton when the Solitary Islands Marine Park came about. I went to a meeting there, which is the biggest public meeting I have ever been to, at the RSL club in Grafton. The one resolution that came out of that meeting was: "We don't want a marine park. But if we have to have a marine park we want New South Wales Fisheries to manage it, not those others." Of course, we have seen the farce that has come about by two managers taking off in two different directions. We need one marine park manager, or one Fisheries manager overall, and obviously it should be New South Wales Fisheries, who have the expertise.³⁵¹

- 4.238** In evidence, Mr Love said the organisation believed that a new structure to manage marine parks was necessary.³⁵² Mr Love suggested that the functions should be separated: one to oversee the assessment and establishment of marine parks, and another to manage marine parks once they are established. It was suggested that a body within the Department of Planning should be responsible for the first function – a primary focus of which would be the integration of state and federal processes for future marine park establishment; while the DECCW would be responsible for managing marine parks.³⁵³

Committee comment

- 4.239** The Committee does not see any reason to change the current arrangement for the responsibility of two Ministers at this time as it addresses the concerns of all stakeholders.

Recommendation 10

That as the primary objective of NSW marine parks is conserve the biological diversity and maintain the ecological processes responsibility for the operational management of marine parks should continue to be appropriately led by the Department of Environment, Climate Change and Water. Responsibility for the declaration of and management of marine parks should be vested jointly with the Minister for Environment, Climate Change and Water and the Minister for Primary Industries.

Recommendation 11

That the NSW Government maintain the concurrence role for the Minister for Primary Industries in the Marine Park Act and remove any concurrence requirements that do not directly relate to fisheries management issues or legislative mandates.

³⁵¹ Mr Cumming, Evidence, 26 May 2010, p 22.

³⁵² Mr Love, Evidence, 3 September 2010, p 66.

³⁵³ Answers to questions taken on notice during evidence, Mr Love, 3 September 2010, Question 1, p 1-2.

The debate on the science underpinning the creation and zoning of Marine Parks

- 4.240** For some time there has been a heated debate in the public domain on whether there is an appropriate scientific basis for the establishment and zoning of marine parks in NSW. To summarise this in simple terms, those who argue there is a scientific basis point to the abundance of international scientific literature that reports on the outcomes arising from the establishment of marine parks/sanctuary zones throughout the world; while critics argue there is insufficient scientific evidence to support the notion that the current design of marine parks in NSW are an effective method for conserving marine biodiversity and fish stocks.
- 4.241** This section examines the concerns and views of various inquiry stakeholder groups on what constitutes appropriate 'science' upon which to base and design marine parks in NSW. This section also examines the scientific research specific to NSW conditions that has and is being used to guide these decisions.

The amount of scientific literature

- 4.242** A number of inquiry participants argued that there is overwhelming scientific support from across the world for marine parks and sanctuary zones. However, the general assumption that the proven need for and benefit of marine parks/sanctuary zones elsewhere is equally applicable in NSW was a point of some debate throughout the Inquiry.
- 4.243** Representatives from AMSA impressed upon the Committee the volume of scientific literature concerning the efficacy of marine parks. Professor Booth provided the Committee with a bibliography of 1,098 articles produced around the world and locally about marine parks.³⁵⁴ Professor Byrne tendered copies of three recent articles published in what are considered best practice scientific journals:

I am tabling this document, along with the scientific papers. There are two examples. The review that David just mentioned is probably current up to about 2008, but major work has been done in 2009-10 in marine parks efficacy around the world. It was published in January 2010 of the proceedings of the National Academy of Sciences in the United States, which is one of the top journals, and reviewed also in that top journal, which is Nature. The two papers are the world's best practice paper and a New South Wales case. I would not expect you to read a thousand papers, but I have chosen 2010 ones so that you feel you have the most up-to-date information.³⁵⁵

- 4.244** Similarly, the Manager of Batemans Marine Park alluded to the volume of scientific information that was available prior to the establishment of that marine park:

Furthermore, a scientific literature search of the ISI Web of Science database reveals the existence of more than 800 scientific publications prior to the commencement of the Batemans Marine Park that had "marine protected area", "marine reserve", "marine sanctuary"—or their plurals—in the titles. Using this particular database comes with quality assurances about the journals included. So it is worth noting that

³⁵⁴ Professor Booth, Evidence, 27 April 2010, p 2.

³⁵⁵ Professor Byrne, Evidence, 27 April 2010, p 4.

this search only represents a subset of the massive amount of scientific information that was available prior to commencement of the Batemans Marine Park because it does not include grey literature, some conference proceedings or textbooks.³⁵⁶

- 4.245** Mr Love, said that barely a week goes by when there is not a major article in the press either about the plight of fish stocks around the world somewhere or of the effectiveness of marine protected areas. Mr Love said that a United Nations report due for publication states that world fish stocks will be depleted by 2050 unless measures such as massive retirement of commercial fishing and establishment of marine protected areas are taken. Mr Love tendered a number of articles including the following extract, which he read to the Committee, from an interview with Mr Pavan Sukhdev, an international scientist, in which Sukhdev said that evidence suggested marine protected areas is an effective means by which to restore endangered fish stocks:

I've been in Australia for the last five days and I read a lot in the newspapers about plans to scrap marine protected areas or to not do more marine protection. Well, that seems to be economically strange because there's a lot of evidence gathering now, especially submitted to my project team, which suggests that marine protection actually is a very good way of restoring fish stock. We have examples all the way from the developed world, like the Georges Bank area of the US where haddock stock was restored to a point where it could provide 70% of US catch, and that's basically all relying on a very simple biological fact that if you let female fish grow to twice the size, depending on which species they are and where they are, they produce 10 to 100 times more eggs, which is basically what restocks fish.³⁵⁷

- 4.246** In his 2007 paper, presented at the Australian Society for Fish Biology 2007 Workshop, Canberra, *The Pros and Cons of Marine Protected Areas in New South Wales*, which he submitted to the Committee, Professor Kearney argued that the benefits that might be expected from establishing marine protected areas appear to vary greatly depending on local circumstances:

Worldwide there has been much debate on MPAs, with an emerging consensus that under the right conditions well designed MPAs can be effective tools for conserving biodiversity and assisting with fisheries management, particularly for relatively sedentary species and stable habitats, such as are often associated with rocky reefs. There is not such good consensus on exactly what benefits users of MPAs can actually anticipate. Benefits, have unfortunately, been more often assumed than proven, particularly for mobile species and complex ecosystems. Benefits appear to vary greatly from place to place and to be circumstance specific.³⁵⁸

- 4.247** Ms Jennifer Edwards, President, Nature Coast Maine Group, emphasised to the Committee that fish are just one part of a very complex ecosystem, and that the importance of sanctuary zones must be judged on the impact on the entire biodiversity. Ms Edwards pointed to the Leigh Reserve in New Zealand as an instructive and relevant example of what can be achieved through sanctuary zones:

...the Leigh reserve in New Zealand, which is temperate reserve, no-take. It has been going for 30 years and the kelp is coming back. I can pass a document round if you want to look at a bit about that. Thousands and thousands of people have been

³⁵⁶ Dr Kelaher, Evidence, 26 May 2010, p 3.

³⁵⁷ Mr Love, Evidence, 3 September 2010, p 65.

³⁵⁸ *The Pros and Cons of Marine Protected Areas in New South Wales: Who's Been Hoodwinked?*, p 1.

coming to Leigh since it was declared, and it is getting more and more popular. People just want to come and see fish. But there were lots and lots of sea urchins there. They had virtually no kelp. Now, after the protection, the rock lobsters are coming back, the big snapper are coming back and the urchins are starting to disappear.³⁵⁹

- 4.248** However, Professor Kearney argued that even such examples where there is a close correlation in habitat require close analysis to understand whether valid comparisons or predictions can be drawn. He notes that the Leigh reserve is naturally protected from many of the land-based threats – a protection not afforded to the same degree to marine parks in NSW:

Even the international example closest to NSW, the Leigh Marine Reserve, which is in habitat in New Zealand that is arguably similar to that in parts of NSW, should be carefully analysed. The Leigh Reserve is widely acknowledged as having resulted in change to local ecosystems and these changes appear justifiably acclaimed as improvements, even if the wisdom and impact of feeding fish in the reserve are questioned. This reserve is small, 500 hectares, compared to many in NSW: the Batemans Marine Park alone is 85,000 hectares.³⁶⁰ The Leigh Reserve is an oceanic area of prominent rocky reef that, most importantly, is naturally protected from many of the threats to coastal ecosystems. No generalisation should be made that because one well selected and relatively easily managed areas closure may increase the abundance and availability of rocky reef species and biodiversity on reefs, or in reef associated areas, area closures in other places will automatically produce benefits...³⁶¹

- 4.249** There were calls from some inquiry participants for NSW to ultimately establish 20 to 30 per cent of its waters as sanctuary zones to bring it in line with these international calls for action. However, others pointed out that the dire situation in the fisheries of other parts of the world is not mirrored in Australia.³⁶² Mr Salter said that the need for total closures of fishing areas needed to reflect the local conditions and needs:

You cannot just take figures from the international council of conservation of nature and say, "We have to shut down 30 per cent of the world's oceans because of the state of the world's fish stocks", because oceans vary. There are cases for 100 per cent closure. When the striped bass fishery collapsed off the coast of Boston and New York we had 100 per cent closure because the area was chronically overfished, not by recreational anglers but by the commercial sector. Likewise different formulae need to be applied to different local situations. That is my problem with this kind of one-size-fits-all approach that seems to be put forward here.³⁶³

- 4.250** The report of the Independent Review of Marine Park Science in NSW stated that it agreed that reference to the global compendia of the outcomes of marine protected areas should be restricted to just alerting the NSW public to the experience with marine protected areas

³⁵⁹ Ms Jennifer Edwards, President, Nature Coast Marine Group, Evidence, 26 May 2010, p 14.

³⁶⁰ Of which approximately 16,000 hectares are within sanctuary zones.

³⁶¹ Submission 88, Professor Robert Kearney, Attachment 1, p 13.

³⁶² For example; Mr Brown, Evidence, 29 April 2010, p 32.

³⁶³ Mr Salter, Evidence, 30 August 2010, p 11.

elsewhere.³⁶⁴ It cannot be assumed that examples or case studies coming from countries with little or formal fisheries management provide a useful indication of what marine protected areas are likely to achieve in NSW.

Committee comment

- 4.251** The Committee notes that marine park in NSW will need scientific evidence to select and identify park boundaries. References to the experience in other jurisdictions can serve to highlight the potential benefits that may accrue from our marine park system if managed effectively.

Are research results reporting the same thing?

- 4.252** The NSW Government submission referred to the large body of scientific research confirming the benefits of marine protected areas for conserving marine life, noting an average increase in biomass of the areas studied:

There is a large and growing body of Australian and international scientific research confirming the benefits of marine protected areas for conserving marine life. This includes a 2009 global study of 124 marine reserves in 29 countries (including Australia) showing a 446 per cent mean increase in biomass across all reserves.³⁶⁵

Further analysis comparing data from temperate reserves in Australia, New Zealand and Canada, and excluding tropical reserves in locations with poor fisheries management still shows comparable increases in biomass, density, size and richness of organisms (with an increase of mean biomass of 975 per cent).

Research from the Great Barrier Reef Marine Park indicates that the 2004 rezoning has led to a rapid and twofold increase in the number and size of fish on many no take reefs, but one of the most ecologically important effects has been decreased outbreaks of coral eating crown of thorns starfish in no-take zones (McCook et al 2010).³⁶⁶

- 4.253** The Committee was advised that monitoring in NSW marine parks is nested within a broader state-wide monitoring evaluation and reporting (MER) program which collects data on marine ecosystems, coastal lakes and estuaries, threatened species, native fauna, aquatic vegetation, and pest and invasive species. All of these monitoring data are relevant to the marine parks and provide baseline and trend data that allow assessments of the condition of marine resources and the pressures on them.
- 4.254** Over time this project will help to research the effectiveness of marine parks by monitoring changes in different types of zones within marine parks and areas outside of marine parks. Marine parks also use Underwater Visual Census (UVC) surveys for monitoring purposes. These surveys are done by SCUBA diving on shallow-water rocky reefs. UVC surveys have been done in all marine parks in NSW and comparisons with marine protected areas in temperate waters of other States can be done.

³⁶⁴ *Marine Park Science in NSW – An Independent Review*, p 20.

³⁶⁵ Submission 1007, p 1.

³⁶⁶ Submission 1007, p 10.

4.255 Research projects such as BRUVs and UVCs are carried out in sanctuary, habitat protection and general use zones to measure changes in species assemblages over time and monitor the relative condition and response of those zones to management. DECCW advised that Committee that it is typical of any research to measure and record data for a selection of species and locations, rather than every species and site of interest. While a large number of sanctuary zones would include research sample sites, it would be neither necessary nor cost effective to study every site to obtain scientifically useful information.³⁶⁷

4.256 The Committee sought further information on the definition of biomass, and was advised biomass refers to the length-weight relationship of species and when biomass is reported by DECCW it is for the species that are the focus of the specific research being undertaken:

In general, biomass is estimated for species that are the focus of the specific monitoring program, and are generally restricted to fish and a few macro-invertebrates such as abalone and rock lobsters. Much of this is done through visual estimation of the length of individual animals using SCUBA or video surveys, with sizes converted to biomass using known length-weight relationships for each species. For ongoing monitoring programs, generally a standard suite of species will be analysed among zones through time in order to ensure changes through protection are comparable.³⁶⁸

4.257 The McCook et al article referred to in the NSW Government submission noted that the benefits of the reserves were greater for smaller site-attached fish than they were for larger, mobile species:

Comprehensive review of available evidence shows major rapid benefits of no-take areas for targeted fish and sharks, in both reef and nonreef habitats, with potential benefits for fisheries as well as biodiversity conservation. Large, mobile species like sharks benefit less than smaller, site-attached fish. Critically, reserves also appear to benefit overall ecosystem health and resilience: outbreaks of coral-eating, crown-of-thorns starfish appear less frequent on no-take reefs...³⁶⁹

4.258 It appears the research focused on a number of target species of fish species, and that while results were generally consistent there was some variation:

These patterns were strongest in coral-dominated habitats, where coral trout, red emperor, and redthroat emperor were all more abundant on no-take reefs. However, the patterns varied considerably among species and habitats.

...A large scale manipulative study of off-shore reefs generally, but not always, had more, larger, and older fish for the two main target species than did reefs open to fishing.³⁷⁰

³⁶⁷ Answers to written questions taken on notice, Mr Michael Wright, Director, Protected Areas, Policy and Programs, Department of Environment, Climate Change and Water, 8 October 2010, Question 15, pp 8-9.

³⁶⁸ Answers to written questions taken on notice, Mr Wright, 8 October 2010, Question 13, p 6.

³⁶⁹ McCook et al, *Adaptive management of the Great Barrier Reef: A globally significant demonstration of the benefits of networks of marine reserves*, 2010, Proceedings of the National Academy of Sciences of the United States of America, 107 (43). 18278- 18285, p 1.

³⁷⁰ *Adaptive management of the Great Barrier Reef: A globally significant demonstration of the benefits of networks of marine reserves*, p 2.

Committee comment

- 4.259** The Committee notes the need to ensure research mandates goals and a timetable for a set of core activities that are essential to be able to describe the condition of biodiversity within the network of marine parks.

Sanctuary zones best for sedentary species

- 4.260** In terms of protection from the impact of fishing sanctuary zones obviously provide a greater level of direct protection to fish species and other organisms that are totally or primarily resident within the area of the sanctuary zone.
- 4.261** Mr Malcolm Poole, Chair, Recreational Fishing Alliance of NSW, drew the comparison between the situation in NSW with that of the Great Barrier Reef which has a greater number of sedentary species:

A class example is on the Great Barrier Reef we have a number of sedentary species that are very small: they are not very big fish. What we talk about here in New South Wales our fish species tend to be a lot more highly manoeuvrable and certainly move up and down the coastline. Yes, we have other species such as groper and drummer and fish like that that will stay there. But we do not have the diversity of fish species as the Great Barrier Reef. Again, it is not one rule fits all.³⁷¹

- 4.262** Many stakeholders from the recreational fishing sector point to the fact that the fish species they target are migratory and that as a result, sanctuary zones provide limited protection to these species. This in turn has led to the call for the right to fish for these migratory species within sanctuary zones.
- 4.263** However, these migratory species while resident do play a role in the ecological processes within sanctuary zones. The Committee sought information on what role the presence – and an increased presence when fishing is excluded from these areas – of these species of fish play within the ecological processes.
- 4.264** The Committee was advised that protecting mobile predatory fish while they are in sanctuary zones does help conserve ecological processes as stipulated by the Act:

Pelagic fish moves more or less large distances and will frequently move in and out of sanctuary zones. While they reside in the sanctuary zone they may feed and thus prey on species residing in the sanctuary zone. So, protecting predatory fish in sanctuary zones (by excluding fishing for example) may lead to a reduction in the number of prey species in that area. That is not a bad thing in itself but part of restoring a healthy balance in the ecosystem protected in the sanctuary zone and conserving ecological processes as stipulated by the Act.

Pelagic ecosystems are an important component of the overall marine environment and impacts on many groups of species can have widespread influences on the broader community through flow-on effects on the food web. This particularly relates

³⁷¹ Mr Malcolm Poole, Chair, Recreational Fishing Alliance of NSW, Evidence, 30 August 2010, p 33.

to impacts on top level predators, which are poorly understood, but may have significant flow-on impacts on the stability and community composition of both the pelagic and benthic components of the system.³⁷²

- 4.265** DECCW further advised that there is potential for sanctuary zones of sufficient size and appropriate location to provide some partial level of protection to pelagic species. However it acknowledged that as these species would not be fully protected, any protection offered by sanctuary zones does need to be accompanied by conventional fisheries management control measures applied to all local populations.³⁷³
- 4.266** As mentioned earlier recreational fishers have called for the right to fish for migratory species of fish which they argue are only transient visitors to sanctuary zone habitats. As indicated by the advice from the Department the role these species play is not known. It was suggested to the Committee that some of these species, such as bream, reside for lengthy periods in inshore rocky reef habitats.³⁷⁴ However, the Committee was advised that adult members of this species can migrate considerable distances and that very little is known about the residence times of Bream on coastal reefs.³⁷⁵
- 4.267** At this stage it is not possible to say how integral any or all of these migratory species are to the ecological processes within sanctuary zones. The issue of whether recreational fishing for these species in specific circumstances could be allowed without unduly interfering with these processes is examined later in this chapter.

Can recreational fishers within marine parks expect to benefit from a spillover of fish from protected areas?

- 4.268** Sanctuary zones within marine parks are often promoted as providing a benefit to recreational fishers in the long-term. One of scientific articles tendered to the Committee by Professor Byrne was entitled *Reserves 'win-win' for fish and fishermen*. That article suggested that marine reserves could help to make nearby fisheries profitable by acting as nurseries for fish larvae that are later spread by ocean currents.³⁷⁶
- 4.269** The process by which protecting fish species within a sanctuary zone will result in an increase in population of the protected species in nearby unprotected areas is known as spillover. The benefits of spillover are often cited to counter criticisms from the recreational fishing sector.
- 4.270** The submission from the National Parks Association of NSW suggested that recreational fishers can benefit from the potential for spillover from sanctuary zones.³⁷⁷ The NPA

³⁷² Answers to questions taken on notice during evidence, Mr Wright, 3 September 2010, Question 4, pp 2-3.

³⁷³ Answers to questions taken on notice during evidence, Mr Wright, 3 September 2010, Question 4, pp 2-3.

³⁷⁴ Professor Booth, Evidence, 27 April 2010, p 3.

³⁷⁵ Answers to questions taken on notice, Mr Bryan van der Walt, Acting Manager, Recreational Fisheries Programs, Industry & Investment NSW, 3 September 2010, Question 11, p 7.

³⁷⁶ Tabled document, Professor Maria Byrne, Member, Australian Marine Sciences Association - NSW, *'Reserves 'win-win' for fish and fishermen'* One Tree Island Research Station, University of Sydney;

³⁷⁷ Submission 860, p 5.

provided a list of 1,098 peer-reviewed scientific publications with marine protected areas, marine reserves or marine sanctuaries in their titles:

A quick perusal of the list of references indicates as many as 30-50% of scientific references relate to the increases in marine species from the establishment of sanctuary zones. It would be expected there would be a spillover effect in all cases.³⁷⁸

4.271 However, representatives from the recreational fishing sector were less likely to accept that spillover was a guaranteed result. Mr Olyott argued that the potential for spillover is dependent upon the specific circumstances:

I think there is still some confusion about some of the science behind it. It is not black and white, cut and dried. In terms of the spill-over effect just as recently as two months ago there was an article in the MPA News which asked the question, "Is it an accepted fact that the spill-over effect works?" Many prominent scientists put forward their views, including a CSIRO scientist, who said, "No, it depends on the species. It depends on the conditions. We can't take these things as gospel".³⁷⁹

4.272 Mr Stan Konstantaras, President, Australian National Sportfishing Association - NSW Branch, argued that recreational fishers are unlikely to benefit from spillover with respect to the fish they typically target, that is pelagic and migratory species:

I cannot see any spillover but from pelagic fish or migratory fish. They are there depending on bait, current and seasonal access. I can understand that in relation to the fish that live there all the time and some of the other fish that really are not recreational anglers' targets or for which there are some pretty good bag limits in place.³⁸⁰

4.273 The article by McCook et al, tendered to the Committee by Professor Byrne examined the potential for 'spillover' of fish species in the Great Barrier Reef Marine Park. The article noted that contributions beyond a reserve depend on adult and larval connectivity both among no-take reefs and between no-take and fished reefs. The article reported there were three factors affecting the degree of larval export:

Larval export from no-take zones is important both for connectivity within the no-take network and for sustaining both conservation and fishery values of the larger area of fished reefs on the GBR. The extent of such export depends on three factors: the extent of larval transport between reefs, the relative reproductive output of no-take and fished reefs, and the dispersal distances from no-take reefs to other reefs.³⁸¹

4.274 The Committee did hear first-hand evidence of the spillover effect with regard to lobsters, a relatively sedentary species, within the Jervis Bay Marine Park.³⁸²

³⁷⁸ Answers to questions taken on notice during evidence, Mr Love, 3 September 2010, Question 3, p 3.

³⁷⁹ Mr Olyott, Evidence, 19 April 2010, p 42.

³⁸⁰ Mr Stan Konstantaras, President, Australian National Sportfishing Association – NSW Branch, Evidence, 27 April 2010, p 46.

³⁸¹ *Adaptive management of the Great Barrier Reef: A globally significant demonstration of the benefits of networks of marine reserves*, 2010, p 3.

³⁸² Mr Peterlin, Evidence, 29 April 2010, p 56.

- 4.275** The report of the Independent Review of Marine Park Science in NSW in identifying ongoing research and key gaps in knowledge noted that there are no studies which specifically address the potential for spillover of eggs, larvae and adults from marine parks to improve the sustainability of exploited species or enhance fisheries in unprotected areas.³⁸³ The report also noted that among its stakeholders there were divergent views on spillover and the contribution of marine parks to the sustainability of fisheries and that most agreed that more should be done to understand this possibility in a NSW context.
- 4.276** The Independent Review said that it was of primary importance for the Marine Parks Authority that they clarify marine biodiversity for the wider public of NSW, focusing upon concepts, values and examples, rather than a focus upon any arguable spin-offs for fishing.³⁸⁴

Biodiversity in sanctuary zones

- 4.277** There was a common belief among many stakeholders that sanctuary zones will always result in an increase in, or at least maintenance of, species numbers. However, DECCW advised that because of the complex food web within some habitats the establishment of a sanctuary zone can actually lead to a decrease in the number of some species:

A number of studies have indicated a period of at least 10 to 25 years is required for the full benefits of sanctuary zones to develop for some reef fishes, invertebrates and macroalgal assemblages, which is mainly driven by the longevity, recruitment patterns and prey interactions of those species. However, because of the complex food web within habitats such as rocky reefs, some species are likely to decrease due to the presence of more predators, and increases in numbers of some species may also be limited by the availability of food and competition.³⁸⁵

- 4.278** A comprehensive review of the effectiveness of the Great Barrier Reef Marine Reserve noted that while in general the numbers of targeted fish in not-take zones increased, in some cases the reverse was true:

The clearest results for shoal monitoring come from well-defined, deepwater shoals in the southern GBR, where mean abundance indices for targeted fish on no-take shoals were twice those of fished shoals, with ratios of up to 11. However, some targeted species did not show benefits of protection. Results from shoals in the central GBR are less clear, largely due to the lack of clearly comparable fished and no-take zoned shoals. In some cases, some target fish were more abundant on no-take shoals, but in other cases, the reverse was true.³⁸⁶

- 4.279** Mr Cheers claims that since the inception of the PSGLMP there is now a problem of a massive number of fish dying within Smiths Lake. Mr Cheers said that historically his business would extract one tonne of fish a week from the Lake, but that ceased two years ago with the

³⁸³ *Marine Park Science in NSW – An Independent Review*, p 13.

³⁸⁴ *Marine Park Science in NSW – An Independent Review*, 26.

³⁸⁵ Answers to written questions taken on notice, Mr Wright, 18 May 2010, Question 17, p 12.

³⁸⁶ McCook et al, *Adaptive management of the Great Barrier Reef: A globally significant demonstration of the benefits of networks of marine reserves*, 2010, p 5.

introduction of the marine park. He told the Committee that he funded a report to determine what was causing the dying fish.³⁸⁷ Mr Cheers said he believed the reason for the dying and undersized fish was starvation, a result of too many fish within the lake:

We believe starvation; there are too many fish in Smiths Lake. We haven't taken a tonne of fish out of there for two years, where we would take one tonne a week before it was a marine park. Fish are still in the lake but fish are in the closures where we are not allowed to work, in the habitat protection zone and the sanctuary zone. We will get hung if we go there. But that is where we told the Marine Park, when we had all the consultation, that is where the fish go. So that is the area they closed. Therefore, we really have no access to the fish. The recreational fishers are doing all right. They can't even get a fillet off a fish, they are that poor. They have lost 60 per cent of their body weight.³⁸⁸

4.280 The Committee has not received sufficient evidence to support Mr Cheers' contention.

4.281 The Committee sought to ascertain whether the potential decreases in some species that may arise from the establishment of a sanctuary zone would likely be short term or permanent. It also questioned whether in assessing the benefit of a sanctuary zone there needed to be an overall net biodiversity increase for it to be assessed as beneficial, and whether an outcome that reflected an environment without human (fishing) intervention is desirable even if there was an overall decrease.

4.282 The Committee was advised that an overall increase in numbers of species was not a prerequisite for a sanctuary zone to be assessed as beneficial:

Changes in community composition of species inhabiting sanctuary zones are likely to persist as long as those sanctuary zones persist – albeit that all natural communities may change over time. This is all part of realizing the aim of a sanctuary zone which is to conserve biodiversity (for example the complexity of species inhabiting the zone) and ecological balance (for example the interaction between species and the complex food webs).

The extent of the benefit from declaring sanctuary zones depends, among other things, on the extent of impact prior to protection. Thus areas that had limited or no prior impact are likely to change very little – the concept of protecting pristine or near-pristine areas – whereas those with significant prior impact are likely to change a lot.

It is important to remember that the goal is to create protected areas that are 'comprehensive, adequate and representative' which is different from focusing exclusively on increasing biodiversity. So yes if the area meets these CAR criteria, and creates a more natural, representative ecosystem, then that would be a worthwhile outcome.³⁸⁹

4.283 The fact that fishing can play a positive role in maintaining the stability of marine ecosystems is discussed below.

³⁸⁷ Tabled document, Mrs Kathleen Cheers, 4 May 2010, *Pathological assessment of mullet and flathead from Smiths Lake*, March 2010, prepared by Ben Diggles PhD.

³⁸⁸ Mr Cheers, Evidence, 4 May 2010, p 46.

³⁸⁹ Answers to written questions taken on notice, Mr Wright, 8 October 2010, Question 14, p 7.

Intermediate disturbance hypothesis

- 4.284** Throughout the Inquiry the Committee heard that fish populations experience boom and bust periods. It is often thought that a 'boom' in one species may be linked to a 'bust' in another. Dr Wilson explained that the marine environment is very much a predator-prey relationship and the abundance of some species is directly linked to the presence of others:

It is a complex trophic food chain, but there are well-documented examples that if you remove some of the larger carnivorous fish—the top-level predators—then you do get increases in low-level fish.

...Particularly in the marine environment it is very much the predator-prey relationship and what we call the trophic cascades that are the critical part of ecosystem functioning; that is, who eats whom.³⁹⁰

- 4.285** Humanity, through fishing, has inserted itself into this food chain. Dr Wilson explained the hypothesis that if the extractive impact of humans is not taken to the extreme this can contribute to the stability of ecosystems:

This result can also be understood in terms of the intermediate disturbance hypothesis with these two cases pushing the system to either extreme". So that is either biodiversity limited by direct fishing pressure or high predation rather than the intermediate position where biodiversity is thought to peak. That goes to quite a complex issue. Biodiversity is a complicated concept. Just having more species, more biomass, is not necessarily optimum, and, indeed, in ecological theory you get the greatest stability of ecosystems at intermediate levels of biodiversity, not necessarily maximum.³⁹¹

- 4.286** Professor Kearney said that while it could not be held that the intermediate disturbance hypothesis would apply in all circumstances, well-managed fisheries – where target species are maintained at reasonable levels of about 30 to 40 per cent of the spawning population – can give an appropriate management platform for improved biodiversity. Professor Kearney emphasised that for a well-managed fishery to allow for biodiversity conservation within an area it was important to ensure that there are no fishing practices that destroy or overexploit non-fish species such as sessile and other organisms.³⁹²

Use of habitat as surrogate

- 4.287** The basis upon which the locations for sanctuary zones were selected has caused some confusion and anger among recreational fishers. Many could not understand why certain habitats were being protected, and were angered by the methods used to identify habitat locations.
- 4.288** Many stakeholders stated that they were familiar with the process for protecting critical or sensitive habitat, where the habitat itself was unique or threatened or played an integral role in

³⁹⁰ Dr Wilson, Evidence, 3 September 2010, p 26.

³⁹¹ Dr Wilson, Evidence, 3 September 2010, p 26.

³⁹² Professor Kearney, Evidence, 3 September 2010, p 44.

the growth cycle of fish species. Recreational fishers also stated that they understand and are in favour of protecting important fish nursery areas such as seagrass beds.

- 4.289** The use of the CAR principle to ensure that a representative sample of habitats are included within sanctuary zones prompted some inquiry participants to question the underlying scientific basis for the establishment of sanctuary zones. The Chairman of The Fishing Party argued that there appeared to be no basis as to why some areas are protected and others are not:

I believe that some reefs are left, but you created marine parks on a percentage basis, that is, 20 per cent. As I said earlier, in some areas 80 per cent of the area might be reef. If you attempt to lock up only 20 per cent some of those areas will still be open. My argument is: Why is the biodiversity in that area less important than it would be in the area that has been locked up? If it is all about the science and we are trying to protect biodiversity, is it not all equal if we are going on science?³⁹³

- 4.290** However, Dr Wilson explained that the approach used in NSW, which is in line with that used elsewhere in the country, was based on the premise of using habitat as a surrogate for biodiversity. That is you select certain habitat types which you predict support certain levels of biodiversity which will benefit from protection:

New South Wales, in line with the approach that is used both by the Commonwealth and the other States and the Northern Territory, based the identification of representative areas on using underwater habitat as a surrogate. That is using the habitat to project the kinds of biodiversity you are going to save there, and that is in turn ground-truthed and tested using approaches like the baited remote underwater videos. The program that has been implemented in New South Wales has been assessed as quite likely the best in the country; it is certainly of a very high standard. A lot of it has been done in collaboration with the Commonwealth research hub on marine biodiversity.³⁹⁴

- 4.291** In evidence Mr Toovey said that the sea-bed habitat mapping and underwater monitoring over the last seven years has provided useful information on the species assemblages present within different habitats:

Part of the concept is using habitat types as a surrogate of what lives there. So if you have an environment certain species will inhabit that environment—they may be sessile, they may be pelagic, they may pass through. But fundamentally our work is looking at what habitat is there and then coming along and looking at what actually lives there—the species assemblages. That is what the underwater- baited video and underwater visual census survey works about. It is about identifying what is actually associated with those habitats—that is, what is it that we are actually representing in the different zones?³⁹⁵

- 4.292** The report of the Independent Review of Marine Park Science in NSW recommended testing the key assumptions involved in using the ecosystem and habitat features as a surrogate for

³⁹³ Mr Smith, Evidence, 5 May 2010, p 10.

³⁹⁴ Dr Wilson, Evidence, 3 September 2010, p 7.

³⁹⁵ Mr Toovey, Evidence, 3 September 2010, p 22-23.

biodiversity over the next five year. Dr Wilson advised there was a major national program testing these assumptions that was due to report at the end of this year:

That is the Commonwealth Marine Biodiversity Research Hub, which has been running, I think, since 2005. That is a major focus of that. The report says that once you establish the basic parameters you need to continually test that and refine it, but that in no way undermines the premise of using the habitat mapping approach for defining the sanctuary zones.³⁹⁶

- 4.293** Dr Wilson noted that one of the primary recommendations of the report of the Independent Review was to complete the sea-bed habitat mapping across the entire NSW coast, not just within marine parks, to identify the range and types of habitat present.³⁹⁷
- 4.294** A number of critics of the marine park process argued that the seabed habitat mapping process should have been completed prior to the original development of zone boundaries for any marine park.
- 4.295** It is clear that the reasons why certain habitat types have been included within sanctuary zones is not well understood by some recreational fishers. As the Marine Parks Authority gathers more information on the biodiversity within different habitat types it will need to convey this information to the public.

Time needed for the full effects of sanctuary zones to manifest

- 4.296** The Committee's attention was drawn to ample evidence of the positive effects of marine park sanctuary zones in Australia and overseas, including early indications of some positive signs for NSW sanctuary zones. However, the Committee also heard that it takes many years, indeed decades, for the full effects of sanctuary zones to manifest. This of course causes a problem for those who wish to see the imposition of a sanctuary zone justified via scientific evidence of improvements in marine biodiversity within a short time frame, such as the five year period between the establishment and first zoning review of a marine park.
- 4.297** It is this length of time required for scientific research results to become evident which has led many participants to form the view that there is no scientific basis for the creation of marine parks in NSW:

For 20 years I have been involved in assisting NSW Fisheries with research programs. In fact, this year is the twentieth anniversary of an event in which I have been involved called Bass Catch. I know how long it takes to gather proper scientific data. I have not seen sufficient scientific data for the implementation of sanctuary zones in the Port Stephens marine park. It was rushed through and there is definitely not enough science in it.³⁹⁸

- 4.298** Other recreational fishers took a somewhat more pragmatic view in while not proposing that current sanctuary zones should necessarily be reversed, argued that no more should be

³⁹⁶ Dr Wilson, Evidence, 3 September 2010, p 7.

³⁹⁷ Dr Wilson, Evidence, 3 September 2010, p 23.

³⁹⁸ Mr Peter Hughes, Public Officer, Junction Inn Fishing Club, Evidence, 4 May 2010, p 63.

implemented until results show that the current ones are making a difference.³⁹⁹ Mr Bob Penfold told the Committee that he believed that at least ten years would be required before any decision could realistically be made:

I am not saying that we should reverse that. All I am saying is that we should look at it in 10 years time to see whether we have made any difference. There is no point in putting in any more sanctuary zones now as an experiment to see what might happen.⁴⁰⁰

4.299 Mr Wright agreed that observing the ecological change associated with establishing a marine park takes many years. Mr Wright noted it is important to collect baseline data and then monitor changes over time:

...observing the ecological change associated with the establishment of marine protected areas can take many years. We are collecting data. We are serious about collecting baseline data and monitoring over time changes in marine biodiversity including fish stocks within marine parks. Some of that information is encouraging but we need to collect more data.⁴⁰¹

4.300 In evidence Professor Byrne, referred the Committee to the scientific article *Exploited reefs protected from fishing transform over decades into conservation features otherwise absent from seascapes*, which argues that locations that were formerly highly fished are needed within MPA networks if the networks are to achieve conservation aims associated with safeguarding all regional habitat types, that is protecting threatened habitats and species and providing appropriate reference benchmarks for assessing impacts of fishing. The Committee notes that the article also asserts that to date no long-term marine protected areas monitoring study has yet surpassed the time required to assess complete ecological recovery from fishing impacts.⁴⁰²

4.301 Contributing to the time required to accurately monitor and assess the effects of sanctuary zones is the challenge posed by the marine environment and the associated cost in undertaking such studies:

There is no doubt that we always need to keep building on our knowledge base and getting those long-term studies so we can actually detect change. It is very challenging in the marine environment to actually get the data to be able to detect trends over a long time.

...It is very expensive and, for your interest, there is lot of work and discussion going on to try to find better methods of automatic monitoring so that we can start to collect this data in an automotive sense, but at the moment it is still very expensive.⁴⁰³

4.302 The time required to monitor and assess the effects of sanctuary zones will continue to make it difficult to persuade critics, particularly in the short-term, that there is a scientific justification for their establishment.

³⁹⁹ For example: Mr Clarke, Evidence, 4 May 2010, p 31.

⁴⁰⁰ Mr Bob Penfold, Evidence, 4 May 2010, p 11.

⁴⁰¹ Mr Wright, Evidence, 19 April 2010, p 9.

⁴⁰² *Exploited reefs protected from fishing transform over decades into conservation features otherwise absent from seascapes*, p 1967-1974.

⁴⁰³ Dr Wilson, Evidence, 3 September 2010, p 31.

What results have been shown in New South Wales

- 4.303** While marine parks are relatively new in NSW, there are a number of areas within the State that have been protected from fishing for more than twenty years. As well as hearing evidence on the identified effects of these long-term closures, the Committee was also advised of observations of early indications of apparent changes within current marine park sanctuary zones.
- 4.304** In evidence Dr Kelaher advised that while it was early days an increased abundance of snapper within Batemans Marine Park sanctuary zones had been noted, and that this may play an important role in settlement patterns of invertebrates:
- Although it is early days, there have already been some positive results. For example, annual surveys of fishes using baited remote underwater video in over 100 sites inside and outside Batemans Marine Park already show greater abundance of snapper in sanctuary zones than in other areas. This result has been further demonstrated in shallower waters at the mouth of Batemans Bay and manipulative experiments indicate that such differences in fish abundance may change settlement patterns of invertebrates. This is important because conservation and marine biodiversity need to include all types of marine organisms and not just fish. There are also early trends towards similar patterns in other marine fauna, however more time is required to make definitive conclusions because marine populations often take years to respond to conservation.⁴⁰⁴
- 4.305** Similar to the experience in Batemans Bay, the Committee was advised that a greater abundance of some fish species (including a greater abundance of larger specimens of these species) within sanctuary zones in the Jervis Bay Marine Park. There was also a noted increase in macrofaunal assemblages.⁴⁰⁵
- 4.306** The Committee also heard evidence from locals who regularly fished at marine parks. Mr Peterlin said that he like many locals initially had the natural concern that the establishment of the Jervis Marine Park would dramatically affect his ability to fish.⁴⁰⁶ The area where he used to regularly dive for lobsters was included in the Hyams Beach sanctuary zone. Mr Peterlin told the Committee that he is now seeing and catching more lobsters than he did previously at Plantation Point, which is north of and outside the sanctuary zone.⁴⁰⁷
- 4.307** Mr Cross told the Committee that while the sanctuary zones now covered a number of long-standing and well-known good fishing spots in Jervis Bay, there were other locations where the fishing was excellent, and it was just a case of knowing where they were.⁴⁰⁸
- 4.308** A number of inquiry participants argued that a reported increased abundance of one or two species of fish within a sanctuary zone does not of itself constitute a biodiversity benefit. Mr John O'Rafferty argued that you should always expect to see more fish in a sanctuary zone:

⁴⁰⁴ Dr Kelaher, Evidence, 26 May 2010, p 4.

⁴⁰⁵ Ms Garrood, Evidence, 29 April 2010, p 2.

⁴⁰⁶ Mr Peterlin, Evidence, 29 April 2010, p 54.

⁴⁰⁷ Mr Peterlin, Evidence, 29 April 2010, p 56.

⁴⁰⁸ Mr Cross, Evidence, 29 April 2010, p 66.

You can always get a bit top-heavy with technical information of course. It is not rocket science that if you stop fishing, the fish stocks will increase. I have seen that firsthand.⁴⁰⁹

- 4.309** A number of witnesses pointed to the limited amount of research showing benefits from long-standing marine protected areas in NSW, such as Fly Point in the Port Stephens area. Both Mr Thurlow⁴¹⁰ and Professor Kearney submitted that the limited amount of identified benefit was telling:

Of course area closures to fishing will often result in relatively more fish than in the areas that are closed, provided compliance is reasonable: if you don't cut the grass it tends to get longer!...The only three NSW examples of so called 'benefits' from marine parks in this State, cited in Marine Parks Authority 2008, relate to two instances of marginal increases in red morwong and one increase in mud crabs.⁴¹¹

- 4.310** The well-known fishing commentator Mr Clarke said that he had chosen not to involve himself in the 'science debate' surrounding marine parks. Rather, he has relied on his own observations within the PSGLMP. In this regard he referred to Halifax Park and Fly Point which he described as being boiling masses of fish:

Things have been in place for only a couple of years. Interestingly in this community—and it would be worth your while to have a look—there are what we call aquatic reserves. They exist at Halifax Park and, more particularly, at Fly Point. They have not been touched for 30 to 40 years. They have been fishing free for that period. They are now just a boiling mass of fish. I have been subjected to the science from both sides. I pretty much made a decision not to involve that in my decision making because it is contradictory. I spent quite a lot of time with Bob Kearney and I respect his points of view. I have also spent a lot of time with the other side of the argument. In my opinion it balances itself out. I do not rely on science; I pretty much rely on what I see and hear.⁴¹²

- 4.311** Mr Clarke went on to venture that as time passes people will generally come to accept the existence of Marine Parks while not necessarily accepting any conclusion to the debate on whether there is a scientific basis for them.⁴¹³
- 4.312** Mr Wright stated the Marine Parks Authority would not move from the underlying principle of ensuring there is a representative sample of habitat types within sanctuary zones, until such time it was presented with incontrovertible evidence that this was not effective in conserving marine biodiversity.⁴¹⁴
- 4.313** However, the Committee does note that the research on the Lake Macquarie and Tross Lake recreational fishing havens, discussed in Chapter 6, demonstrated an increase in biodiversity when commercial fishing was removed but recreational fishing was retained.

⁴⁰⁹ Mr John O'Rafferty, Evidence, 5 May 2010, p 59.

⁴¹⁰ Mr Thurlow, Evidence, 15 June 2010, p 68.

⁴¹¹ Submission 88, Attachment 1, p 12.

⁴¹² Mr Clarke, Evidence, 4 May 2010, p 26.

⁴¹³ Mr Clarke, Evidence, 4 May 2010, p 29.

⁴¹⁴ Mr Wright, Evidence, 3 September 2010, p 31.

Committee comment

- 4.314** It appears that many recreational fishers are convinced that there is no science at all behind the marine parks system in their State. As noted it will be some time before evidence of the full effect of the impact of marine parks will be available. However it is important that information and results are provided to the public as soon as possible.
- 4.315** It is also clear that many people still equate biological diversity with an increase in fish stocks, and this misconception needs to be addressed. The Independent Review of Marine Science made a number of recommendations with respect to improving public understanding. The review argued it was of primary importance that what is meant by marine biodiversity be clarified for the wider public.
- 4.316** The review also recommended that better scientific documentation be placed upon the Marine Parks Authority website, written in lay language but without dumbing-down or glossing over key issues in dispute. This information should address both sides of the argument about the desirability of marine protected areas and address key concerns arising from the public. The Committee agrees with this recommendation.

Should other activities be excluded from sanctuary zones?

- 4.317** As discussed earlier in this chapter, among parts of the recreational fishing sector there is resentment towards scuba divers. A number of inquiry participants questioned the impact that the proliferation of scuba diving was having on sanctuary zones, particularly those that incorporate grey nurse shark aggregation sites.⁴¹⁵ However, Mr Thomas believed the impact of divers on grey nurse shark sites was negligible, particularly in areas where the animals were now used to the presence of divers.⁴¹⁶
- 4.318** The Committee notes that the zoning plan for Cape Byron Marine Park advises of certain restrictions on diving and snorkeling within the grey nurse shark critical habitat area surrounding Julian Rocks, albeit the restrictions are applied under the provisions of the Fisheries Management Regulation.
- 4.319** The report of the Independent Review of Marine Park Science acknowledged that activities other than fishing may significantly impact local biodiversity especially where they focus human activity in particular locations:

While tourism and recreational activities were encouraged within MPAs and seen by many as being non-extractive and consistent with marine park values, it was recognized that they too may significantly impact local biodiversity, especially where they focus human activity in particular locations. Examples included threats of anthropogenic activity on habitats, interactions with marine mammals, diving impacts on sensitive habitats/species, and impacts on shorebirds.

⁴¹⁵ Mr Parker, Evidence, 15 June 2010, p 63; Answers to questions taken on notice, Mr Peter Saunders, President, Underwater Skindivers and Fishermen's Association, 28 May 2010, p 2.

⁴¹⁶ Mr Thomas, Evidence, 30 August 2010, p 55.

As was the case for fishing, projects investigating impacts of recreation and tourism should be strongly linked to the zoning plans for individual marine parks.⁴¹⁷

- 4.320** The Committee was advised that the MPA has identified a number of specific tourism and recreation activities that have the potential to impact on marine parks currently or in the future. Ensuring recreation and tourism activities within NSW marine parks are sustainable is an on-going core research issue, and a number of research projects have and are currently being undertaken.⁴¹⁸

Should ocean beaches be included in sanctuary zones?

- 4.321** Recreational fishing organisations are generally unhappy with the establishment of sanctuary zones. The use of habitat types as the basis for the selection of sanctuary zones has led many stakeholders to question why such dynamic environments as ocean beaches have been included.
- 4.322** Mr Harnwell related how the inclusion of ocean beach within sanctuary zones caused considerable community angst during the development of the Jervis Bay marine park zoning plan:

That particular sanctuary zone caused a lot of angst in the local community, especially for people in Currarong, and, as I recall, when I was on the advisory committee there was a lot of debate about the merits of it. Stopping people from fishing on that beach is acknowledged as having no environmental benefit. I would argue that the marine parks people would have been better off putting a 100- metre exclusion zone and allowing people to fish off the beach, where they were not doing any habitat damage, were not catching fish that were residents of the area, and then having their offshore area to protect the reef if they wanted. That would have eased a lot of community angst. It is a fairly flexible thing to do and that is the sort of approach we need to take.⁴¹⁹

- 4.323** Mr Toovey advised that marine park sanctuary zones include approximately 43 kilometres of sandy ocean beach. He further noted that in many cases one-hundred metre wide habitat protection zones had been implemented within sanctuary zones to provide for ocean beach fishing:

...marine park sanctuary zones only include about 43 kilometres of sandy ocean beach. We are talking about an ocean waters coastline in the State of a bit over 2,000 kilometres, so it is around about 4 per cent. You pointed to examples in Jervis Bay. In Cape Byron there are quite a few examples—at Brunswick Heads habitat protection zone, there is Grays Lane habitat protection zone, which is north of Byron itself, Belongil Beach and at Tallows Beach there are recreational fishing off the beach opportunities, and at Seven Mile Beach, towards the south of the park⁴²⁰

⁴¹⁷ *Marine Park Science in NSW – An Independent Review*, Marine Park Advisory Council NSW, p14.

⁴¹⁸ Answers to written questions taken on notice, Mr Wright, 8 October 2010, Question 23, p 12.

⁴¹⁹ Mr Harnwell, Evidence, 29 April 2010, p 13.

⁴²⁰ Mr Toovey, Evidence, 3 September 2010, p 19.

- 4.324** In evidence, Professor Kearney said that in his view the scientific evidence that was first used to support the case for including ocean beaches and estuaries within sanctuary zones was falsified. He suggested that a serious review of the efficacy of marine parks should start with the abolishment of sanctuary zones within these areas.⁴²¹ As noted earlier in this chapter land-based anglers were the recreational fishing group most heavily impacted upon by sanctuary zones. It was also noted that less mobile anglers can be significantly affected by the closure of ocean beaches to fishing.
- 4.325** The Independent Review of Marine Park Science also questioned the relative value of implementing sanctuary zones in the dynamic environment of ocean beaches.⁴²² Notwithstanding its acknowledgement of the recognition that all habitats need to be represented in sanctuary zones under the CAR principles, it recommended that there be a review of the utility of zoning, in particular what is gained by having sanctuary zones in ocean beach and estuarine habitats.
- 4.326** The Committee sought advice whether there was any move towards implementing a 100-metre from shore buffer on all ocean beach sanctuary zones while the review of the utility of such zones was undertaken. The Committee was advised that there was no intention to implement a blanket change, and that such issues would be considered during the periodic zoning plan reviews for each park.⁴²³
- 4.327** The Committee notes that the ability to redress this constraint on fishing is some time away for those communities whose zoning plan review has just recently taken place. The Committee also notes, and endorses, those examples of where this buffer zone has been implemented and believes this zoning adjustment should be considered during the zoning plan reviews in all marine parks.

Recommendation 12

That a 100-metre from shore habitat protection zone be implemented within suitable current sandy ocean beach sanctuary zones until a review of the utility of such sanctuary zones is completed.

Can fishing in sanctuary zones be allowed?

- 4.328** A number of witnesses expressed the difficulty in understanding the concept of not being able to target transient fish within sanctuary zones. Mr Steve Samuels, Vice president, NSW Council of Freshwater Anglers said that it was vital to have this connection explained to anglers:

I cannot understand why if you want to protect species A which is a reef-dwelling species that sits on the bottom that we cannot troll across the top of the sanctuary zone. I struggle with that concept. People say they want to protect the reef. What does

⁴²¹ Professor Kearney, Evidence, 27 April 2010, p 17.

⁴²² *Marine Park Science in NSW – An Independent Review*, Marine Park Advisory Council NSW, p 18.

⁴²³ Answers to written questions taken on notice, Mr Wright, 8 October 2010, Question 19, p 10.

that mean in scientific terms? Surely we want to protect things within the reef. Once anglers understand what species or formation is sought to be protected they will come to the table saying that is reasonable.⁴²⁴

- 4.329** Mr Castle, who is also a current member of ACoRF said the Sea Bees Boating Club also had difficulty in understanding why trolling, even on a seasonal basis, is not permitted in sanctuary zones.⁴²⁵ Mr McGlashan suggested that if it was the sea-bed habitat that was the object of protection then certain fishing activities could be allowed:

I think the better thing is that there are certain bottom structures we should be protecting, which are not moving...No anchoring and no bottom fishing. Trolling is still allowed and so is drifting, but no bottom fishing. For argument's sake, where there are ferns or something like that down there—sea corals or ferns or something like that—that we need to protect, we put a "no anchoring zone" or something like that. We need to understand what we are protecting, though.⁴²⁶

- 4.330** The submission from Australian National Sportfishing Association stated that it supports the use of sanctuary zones to protect representative critical habitat areas. However it suggested that a number of methods including rotating sanctuary zones once regeneration was complete, seasonal access to pelagic species within sanctuary zones and multi-use sanctuary zones need to be considered.⁴²⁷
- 4.331** The submission from the USFA suggested permission should be granted for specific practices that allowed limited spear fishing in sanctuary zones, and if spear fishing was allowed only pelagic transient species would be targeted.⁴²⁸
- 4.332** A number of witnesses drew the Committee's attention to the fact that such practices were permitted in some overseas sanctuary zones. Mr Olyott referred to the Florida marine park in which fishers are allowed to troll while moving through a sanctuary zone using line, lure or bait, on a strict catch and release basis.⁴²⁹ On the question of whether it would difficult to police whether anglers were strictly complying with what was allowed Mr Olyott and others ventured that a level of trust was required and that such opportunities should not be denied simply on the basis of management difficulties.⁴³⁰
- 4.333** Mr Clark also pointed to the situation in the United States where, he said, fishing for pelagic species is allowed within what would be considered a sanctuary zone in our marine parks.⁴³¹ Mr Salter suggested consideration could be given to a special permit system where fishers, for an additional cost, would be allowed to fish using specific methods within sanctuary zones.⁴³²

⁴²⁴ Mr Steven Samuels, Vice President, NSW Council of Freshwater Anglers, Evidence, 30 August 2010, p 45.

⁴²⁵ Mr Castle, Evidence, 3 September 2010, p 55.

⁴²⁶ Mr McGlashan, Evidence, 27 April 2010, p 62.

⁴²⁷ Submission 1004, Australian National Sportfishing Association, p 18.

⁴²⁸ Mr Wayne, Evidence, 27 April 2010, p 40.

⁴²⁹ Mr Olyott, Evidence, 19 April 2010, p 42.

⁴³⁰ Mr Olyott, Evidence, 19 April 2010, p 42; Mr Harnwell, Evidence, 29 April 2010, p 13.

⁴³¹ Mr Clark, Evidence, 26 May 2010, p 52.

⁴³² Mr Salter, Evidence, 30 August 2010, p 11.

- 4.334** Mr Birt expressed some reservation about the proposal for limited fishing within sanctuary zones, arguing that enough is not yet known about marine environments to suppose that they would remain effective:

Whereas the idea of a sanctuary zone is to try to remove as much direct human impacts as possible in order for the whole system to try to revert back to something like what it was before any sort of human extraction took place. I think we probably do not understand enough about the marine environment yet to start supposing that if you have a partial sanctuary it might be as effective as a sanctuary zone.⁴³³

- 4.335** During the early stages of the Inquiry the Committee posed the question to DECCW whether there was potential to allow limited and restricted fishing access to sanctuary zones without compromising the integrity and purpose of the zones. The departmental response was that within the definitions contained within the Marine Parks (Zoning Plan) Regulation it would be impossible to allow fishing within a sanctuary zone because all types of fishing, including catch and release, would constitute causing harm.⁴³⁴

- 4.336** However, as explained by Mr Haste, if there was a need or opportunity to provide fishing access to sanctuary zones, the logical step is to give it a new zone classification:

We have incorporated a number of measures to try and facilitate fishing in areas that would have otherwise been sanctuary zones. We cannot technically allow fishing in a sanctuary zone, as that is against the Marine Parks Act. But what we did in zoning this park was we created special classes of habitat protection zones.⁴³⁵

- 4.337** The Committee was advised that fish represent approximately only two per cent of marine biodiversity and that much of the other 98 per cent is sessile organisms which sit in place and do not move around.⁴³⁶ Dr Wilson advised that if certain fish species are removed this can have dramatic flow-on effects through the whole ecosystem:

Whether it is biomass or number of species, but it would not be correct to say that the activity of fishing only targets those species because of the way the ecosystem works. If you remove certain fish species, then you have very dramatic flow-on effects through the whole ecosystem.⁴³⁷

- 4.338** At the final public hearing the Committee again sought the department's views on the proposal that fishing for certain species within sanctuary zones be allowed. Mr Toovey indicated the type of research that would be required in order to fully consider such a proposal:

If we could take that question on notice and provide some more detail, but briefly that sort of work, research would need to go into determining what the effect of that was. If it was just targeting pelagic species, what are the species? What are the factors that

⁴³³ Mr Birt, Evidence, 30 August 2010, p 3.

⁴³⁴ Answers to written questions taken on notice, Mr Wright, 18 May 2010, Question 15, p 9.

⁴³⁵ Mr Haste, Evidence, 4 May 2010, p 36.

⁴³⁶ Dr Wilson, Evidence, 3 September 2010, p 8.

⁴³⁷ Dr Wilson, Evidence, 3 September 2010, p 30.

would influence the outcome of any biological response to that activity? That is something that would need to be looked at. We will take that on notice and provide some further detail.⁴³⁸

- 4.339 Unfortunately the subsequent advice from the department did not touch further on the potential for the proposal for fishing access to sanctuary zones.⁴³⁹

Committee comment

- 4.340 The interaction and the role of migratory fish in the ecological processes within sanctuary zones is not well understood and is also the subject of on-going research.
- 4.341 The Committee believes that at least one current fishable zone within each marine park should trial restricted fishing practices, such as trolling only, no anchoring and/or catch and release. These sites should be monitored to determine the relative impact of these fishing practices. The sites should be selected by the respective local marine park advisory committees, in consultation with local fishers.

Recommendation 13

That at least one fishable zone within each marine park be selected to trial restricted fishing access, with each site to be monitored to determine the impact of this restricted access on biodiversity, habitat and ecological processes, compared to a fully restricted sanctuary zone, in consultation with recreational fishers.

The independent review of Marine Park science in New South Wales

- 4.342 The Independent Review of Marine Park Science in NSW was completed in December 2009 and a copy of the report was provided to the Committee as part of the set of papers tendered by DECCW at the 19 April public hearing. The report makes 24 recommendations, some of which have been referred to throughout this chapter. Appendix 2 contains the full set of recommendations arising from the review.
- 4.343 The introduction to the report notes that the need for an independent review was borne out of the controversy over aspects of the marine parks system in NSW:

NSW has six multiple-use Marine Parks that contribute the majority of seafloor area to the statewide system of marine protected areas (MPAs)...This arrangement has grown and evolved since 2001 and the first five years covered by a Research Plan (Anon undated) is now coming to an end. With a statutory timeline in place now in NSW for reviewing the zoning and operation of marine parks, the time was right for an injection of new strategic thinking. What was needed was independent advice about the performance to date of science and research in the Parks because of the prior controversy over aspects of the Marine Parks system.⁴⁴⁰

⁴³⁸ Mr Toovey, Evidence, 3 September 2010, p 28.

⁴³⁹ Answers to questions taken on notice during evidence, Mr Wright, 8 October 2010, Question 4, pp2-3.

⁴⁴⁰ *Marine Park Science in NSW – An Independent Review*, p 4.

4.344 The Independent Review Panel was tasked to:

- assess the appropriateness of the Strategic Framework and Research Plan in light of the growth of the Marine Park system and of knowledge since they were written
- review the implementation effectiveness of the Strategic Framework and Research Plan
- consider key stakeholder issues with the Strategic Framework and Research Plan
- report directly to the Marine Parks Advisory Council.⁴⁴¹

4.345 It should be noted that the review had no role in reviewing NSW Government policy decisions relating to the declaration and zoning of marine parks. The report notes that some of the testimony it heard from external stakeholders was focused on the philosophy and operational aspects underpinning the marine park system in NSW. While some of the issues raised had merit, the review was focused on its terms of reference.

4.346 Of the twenty four recommendations made, eleven were identified by the independent review panel as being of primary importance. They are reproduced below:

- The strategic framework from 2004 and Strategic Research Plan 2005-2010 need internal review and rewriting with a view to their renewal and use over 2010-2015
- The Strategic Framework now requires a thorough internal re-evaluation of the relative emphases across different parts within it, their relative progress toward being achieved, and their priority order for the next five years.
- The next Research Plan (for 2010-15) needs more detail to guide potential contributors to that research, monitoring and evaluation
- Key Research areas addressing issues of socio-economic or heritage values need to be emphasized more so than in the past. Thus we expect that 'Socio-economic Issues', 'Indigenous and Non-Indigenous Culture and Heritage' and several aspects within 'Specific Impacts' to get more overt attention during 2010-15
- More emphasis should be placed in the future on integrating socio-economic studies with biophysical studies to improve the effectiveness of the management of MPAs
- From a socio-economic perspective, non use values of Marine Parks should be considered within the next Research Plan
- A central part of that new Strategic Research Plan should be a more transparent undertaking to conduct research in each Marine Park and articulate how it fits into the Statewide network. Such a plan should mandate goals and a timetable for a set of 'core' activities are essential to be able to describe the condition of biodiversity within the network and each Marine Park
- Give more emphasis to the research program for NSW Marine Parks as a whole rather than attempting to test each general hypothesis in all parks, eg construct a statewide database of research undertaken, datasets and key findings
- Complete habitat mapping across the entire NSW coast to address the CAR principle

⁴⁴¹ *Marine Park Science in NSW – An Independent Review*, p 5.

- Shift from Major Priority 1 [selecting marine parks and their boundaries] to Major Priority 2 [monitoring, evaluating and modifying marine park boundaries and zoning arrangements] regarding the main uses of the research being done in NSW Marine Parks
- Clarify marine biodiversity for the wider public of NSW, focusing upon concepts, values and examples, rather than a focus upon any arguable spin-offs for fishing.⁴⁴²

4.347 In the early stages of the Inquiry Mr Wright advised that the report of the Independent Review was directly informing the development of the new five year research plan:

It is important to note that scientific research and monitoring has been critical to informing the proposed zoning plan changes. A well-developed research and monitoring program is in place for New South Wales marine parks, as set out in the 2004 Strategic Framework for Evaluation and Monitoring of Marine Parks and the 2005-2010 Marine Parks Strategic Research Plan. In 2009-10 around 40 research projects are underway, supported by a budget of about \$900,000. An independent review of marine park science has now been completed and is directly informing the development of a new 2010 to 2015 research plan. A copy of the report of the independent review of marine park science will be tabled today.⁴⁴³

4.348 While there was some debate between inquiry participants and in the public domain as to whether the report of the review was critical or complimentary about the focus and conduct of previous research, there was no dispute as to the appropriateness of the report's recommendations.

4.349 At the final public hearing the Committee was advised that the MPA had accepted all of the recommendations of the Independent Review, and that a draft marine park research framework had been made public, for which the Authority was seeking public comment.⁴⁴⁴

4.350 In response to a question from the Committee whether the Marine Park Authority would have enough funds to effectively carry out the research plan as outlined in the Independent Review, Mr Wright advised that the amount of funds dedicated to marine parks research was increasing – in the current financial year the amount allocated was \$1 million, up \$100,000 on the previous financial year. Dr Wilson further noted that part of this amount could be used to leverage external research to contribute towards the overall research plan:

One of the recommendations of the review was to give more detail in the key directions to go forward, which we have done. One of the reasons is to be able to better leverage on other research groups that can also contribute to our understanding; so to give better guidance, say, for universities and other potential partners.⁴⁴⁵

Committee comment

4.351 Many of the recommendations of the Independent Review are aimed at increasing the amount of useful information regarding the operation of marine parks that is available to the general

⁴⁴² *Marine Park Science in NSW – An Independent Review*, p 2.

⁴⁴³ Mr Wright, Evidence, 19 April 2010, p 5.

⁴⁴⁴ Mr Wright, Evidence, 3 September 2010, p 29.

⁴⁴⁵ Dr Wilson, Evidence, 3 September 2010, p 32.

public. The shift in research priority to monitoring, evaluating and modifying marine park boundaries and zoning arrangements will potentially address many of the key issues for inquiry participants. The Committee notes that the budget allocated to marine park research was increased in the current financial year to \$1 million, however this is not enough money to conduct necessary work.

- 4.352** Notwithstanding the assurances from departmental officers that there will be adequate funds to give effect to the recommendations of the review, the Committee prefers to seek a commitment from the NSW Government that additional funding, if required, will be provided. Reflecting the importance of this research, the Committee also recommends that the NSW Government not create any new marine parks until the next five-year research plan has been completed.

Recommendation 14

That the NSW Government provides sufficient funding to ensure the effective and timely implementation of the twenty-four recommendations contained within the December 2009 report *Marine Park Science in NSW – an Independent Review*.

Recommendation 15

That the NSW Government not create any new marine park until the next five-year marine park research plan is completed.

Chapter 5 Representation of recreational fishers

The terms of reference for the Inquiry required the Committee to inquire into the effectiveness and efficiency of the current representational system of trusts and advisory committees that advise government departments and statutory authorities. The Inquiry found that in general recreational fishing organisations were dissatisfied with the current system, primarily due to the fact that while it has representation on advisory bodies it does not have a single representative body that can effectively advocate on its behalf. The diversity of the sector also makes representation problematic.

There were also calls, although to a lesser extent, for an alternative representative structure that extended beyond the provision of advice to include some management functions.

The current representational advisory system

5.1 The NSW Government receives advice on recreational fishing matters from the Advisory Council on Recreational Fishing (ACoRF). Recreational fishers are also represented on the Marine Parks Advisory Council (MPAC), and on each local marine park advisory committee. Issues relating to the MPAC and local marine park advisory committees were examined in the previous chapter.

Ministerial Advisory Committee on Recreational Fishing (ACoRF)⁴⁴⁶

5.2 The Advisory Council on Recreational Fishing (ACoRF) is established under the *Fisheries Management Act 1994* to provide advice to the Minister for Primary Industries on matters relating to recreational fishing. The Minister appoints members, who have expertise in one or more specific areas relating to recreational fishing, including:

- estuary fishing
- offshore fishing
- freshwater fishing
- underwater fishing
- sale of fishing tackle
- the media (reporting on fishing)
- charter boat fishing
- Aboriginal culture
- a nominee of the Nature Conservation Council
- the Director General or a nominee of the Director General
- other persons the Minister considers appropriate.

⁴⁴⁶ The information describing the membership and role of ACoRF is taken from Submission 1007, NSW Government, p 14.

- 5.3** Membership is widely advertised through an expression of interest process. The Council is chaired by an independent chairperson. Whilst being able to express views to the NSW Government on a range of recreational fishing issues, ACoRF is not an independent representative or lobbyist group. Appendix 3 lists the current membership of ACoRF.
- 5.4** The Minister for Primary Industries is required under the *Fisheries Management Act 1994* to consult ACoRF regarding priorities for expenditure from the Trusts. There are two sub committees of ACoRF, the Recreational Fishing Saltwater and the Freshwater Trust Expenditure Committees. Appendix 1 contains details on the membership of these two committees.

Criticisms of the ACoRF

- 5.5** The submission from the Recreational Fishing Alliance of NSW includes a list of concerns, identified by recreational fishers, with respect to the operation of the ACoRF and the committee system, that generally encapsulate the range of issues raised with the Committee in submissions and evidence by other inquiry participants:
- Committees and council members are not elected by fishers
 - Chairs and deputy chairs of councils and committees are not elected by committee members
 - There is no code of conduct for council and committee members
 - Vacancies on advisory councils and committees are not filled promptly
 - The workloads of councils and committees have increased
 - An increasing amount of Fisheries core activity being referred to advisory council and trust fund committees for funding for example funding of state's main trout hatchery
 - An increase in issues caused by conflicts between recreational fishers and other agencies, such as marine parks and national parks
 - Time spent assessing the costs associated with cost shifting by Fisheries, for example, approving appointments and salaries for Fisheries conservation and compliance positions previously considered to be core business which are now funded by the trusts
 - Advisory councils and committees do not actively communicate to recreational fishers
 - Inadequate communication by council and committee members to stakeholders
 - Agendas and proposals under discussion at trust meetings are not made available to council and committee members in time for them to consult their constituents prior to the meetings
 - Members are obliged to *not* [emphasis as per original] discuss the business of councils and committees with stakeholders until minutes are approved.⁴⁴⁷

⁴⁴⁷ Submission 943, Recreational Fishing Alliance of NSW, pp 4-6.

Not effectively representing the interests of recreational fishing

- 5.6** Perhaps the most common criticism of ACoRF among inquiry participants from recreational fishing organisations was that ACoRF was not effectively representing and championing their interests and concerns. The Committee notes that the substance of this criticism is fundamentally unjust. A number of participants apparently desired or believed that ACoRF should adopt a stronger advocacy role. However, it must be emphasised that under the current legislation ACoRF is not an advocacy body and cannot adopt an advocacy role.
- 5.7** The widely held view that recreational fishers require a strong independent body that can advocate on its behalf is examined later in this chapter.

No connection between ACoRF and the recreational fishing community

- 5.8** A number of inquiry participants commented that the majority of recreational fishers were unaware of the existence and role of ACoRF. It was frequently argued that as it is a representative body it should make more effort to communicate with the recreational fishing community. Mr Bill Judd, Member, Laurieton United Servicemens Fishing Club, was one inquiry participant who was critical of this lack of communication:

I can speak for these blokes collectively when I say that we would like to see more representation from fishermen, or those that are supposed to be represented by these bodies. I would also like to think that some of these people who are supposedly representing us would do just that—come out and talk to us. I would not know any of them. So far as representing us goes, it is a pretty ordinary example.⁴⁴⁸

- 5.9** In evidence, the fishing journalist, Mr Al McGlashan also referred to the fact that most recreational fishers were unaware of the existence of ACoRF:

It should branch out to the clubs and tackle shops and the average angler. That is what we miss. I get a lot of opinions at the boat ramps or at the wharfs. They are the best spots. I talk to people fishing in an estuary. They are the grassroots. Half of them would not know what ACoRF is.⁴⁴⁹

- 5.10** The Committee notes that Mr McGlashan, who through his media activities communicates with a large section of the recreational fishing sector, is now a current member of ACoRF. Having members with such media connection to recreational fishers no doubt has the potential for ACoRF to lift its profile and connection with recreational fishers. However, the Committee heard the current operating structure of ACoRF constrains the ability of its members to reach out.
- 5.11** Mr Max Castle, Past President and Life Member, Sea Bees Boating Club, and Member, ACoRF, said that he and his other council colleagues were restricted from freely discussing ACoRF business to the extent that they would like. Members are obliged to not discuss the deliberations of council meetings until the minutes are approved, which can take some time. Mr Castle explained his frequent dilemma to the Committee:

⁴⁴⁸ Mr Bill Judd, Member, Laurieton United Servicemens Fishing Club, Evidence, 5 May 2010, p 36.

⁴⁴⁹ Mr Al McGlashan, Fishing journalist, Evidence, 27 April 2010, p 53.

This puts us in a situation where it is extremely difficult to seek expert advice in areas that we may not have specific knowledge. In my case, I have got experience in estuary, freshwater and close inshore fishing, but if it was an issue, for example in relation to deep or offshore fishing, then it makes it very difficult for me to talk to my peers about their views on what decisions ACoRF should be reaching.⁴⁵⁰

- 5.12** Mr Malcolm Poole, Chairman, Recreational Fishing Alliance of NSW, said that his organisation had suggested that the Fishing Trust Committees and ACoRF should seek to raise its profile by holding meetings in regional areas and by hosting workshops. Mr Poole said that a similar pattern was currently working in Victoria.

Some of the suggestions we have made to the Recreational Fishing Trust and the Advisory Council on Recreational Fishing [ACORF] is that we host workshops or information nights up and down our coastlines, do port meetings, go to local areas and do two or three presentations on our research to date. Some of those ideas have been canvassed. It is very similar to the pattern that is working currently in Victoria where they are having those types of port meetings or regional area meetings. It is something that New South Wales Industry and Investment should consider.⁴⁵¹

- 5.13** From the evidence it received it is clear to the Committee that there is a pressing need for the ACoRF to raise its profile among the recreational fishing sector.

Membership of ACoRF

- 5.14** A number of concerns were raised with respect to the membership of ACoRF. By far, the most frequent criticism was that membership is made by way of Ministerial appointment. Many recreational fishers cannot reconcile the concept of a representative body to the fact that they have no role in influencing who is selected to represent them.

- 5.15** Mr Mel Brown, spearfisher, said that previously advice was provided to the Minister by a representative body which included representatives from all the major fishing organisations. Mr Brown said that the current process of Ministerial appointment has led to dissatisfaction among recreational fishers:

We had our own representatives who represented all the major fishing organisations but, over time, this has been watered down and it is no longer the case. Advertisements are placed in papers and individuals apply for positions and they are selected by a process that is unclear to us and with which we have no involvement. This has led to a lot of dissatisfaction amongst fishers who do not believe they are being fairly represented and would be much happier with an alternative system where fishers were actually electing the people who represent them.⁴⁵²

- 5.16** Mr John Clarke, recreational fisher, and member, ACoRF, said he believed there were a number of areas in which ACoRF was letting recreational fishers down. He believed the major

⁴⁵⁰ Mr Max Castle, Past President and Life Member, Sea Bees Boating Club, and Member, ACoRF, Evidence, 3 September 2010, p 58.

⁴⁵¹ Mr Malcolm Poole, Chairman, Recreational Fishing Alliance of NSW, Evidence, 30 August 2010, p 30.

⁴⁵² Mr Mel Brown, spearfisher, Evidence, 29 April 2010, p 32.

problem was the lack of regional representation. Mr Clarke said that there was no member who was a resident from the area between Sydney and the Victorian border.⁴⁵³

5.17 Mr Clarke further noted that he was the only member of ACoRF who lived within the boundaries of a marine park. He said that the views on marine parks expressed by some members at council meetings clearly indicated little first-hand experience.⁴⁵⁴

5.18 The Nature Conservation Council of NSW is given the right to nominate a representative to ACoRF – the only 'non-fishing' member of the council. Mr Ben Birt, Marine Conservation Officer, Nature Conservation Council of NSW, told the Committee that by sheer weight of numbers, it was often difficult for their representative to make the organisation's voice heard. He suggested to the Committee the membership of the council should include an independent scientific representative:

However, it would be beneficial if the committee were to have an independent scientific representative—someone not attached to the Government, industry or conservation. It could be an independent scientist, perhaps from one of the universities, who would be able to answer those sometimes tricky questions that come up, particularly relating to marine protected areas, which tend to generate a lot of emotion.⁴⁵⁵

5.19 The Committee notes that in the past year the number of members appointed to ACoRF has increased by three. One of the new members is listed as having extensive research experience in the field of aquatic ecology, waterway and fishery management.

Committee comment

5.20 This section has only briefly touched on the concerns regarding the structure and operation of ACoRF raised by inquiry participants. A number of different suggestions were made on where improvements could be made. It is important to note that a number of members of ACoRF themselves said that a review was required to identify opportunities for improvement.⁴⁵⁶ The Committee agrees that a review should be undertaken.

5.21 There was evidence that information about ACoRF processes is not available to the wider fishing community.

Recommendation 16

That Industry & Investment NSW undertake a review, including any legislative constraints, of the structure, membership and operation of the Advisory Council on Recreational Fishing.

⁴⁵³ Mr John Clarke, recreational fisher, and member, ACoRF, Evidence, 4 May 2010, p 27,

⁴⁵⁴ Mr Clarke, Evidence, 4 May 2010, p 27.

⁴⁵⁵ Mr Ben Birt, Marine Conservation Officer, Nature Conservation Council of NSW, Evidence, 30 August 2010, p 5.

⁴⁵⁶ Mr Clarke, Evidence, 4 May 2010, p 27; Mr Castle, Evidence, 3 September 2010, p 58.

The Saltwater and Freshwater Trust Expenditure Committees

- 5.22** The two expenditure committees were established as non-statutory sub committees of ACoRF to assist with providing advice to the Minister for Primary Industries on expenditure priorities from the two Recreational Fishing Trusts.
- 5.23** Funds in the Trusts can only be allocated to a range of programs to improve recreational fishing, as set out in the *Fisheries Management Act 1994*. The categories of programs funded by the Recreational Fishing Trusts are broadly consistent with the objectives of the *Fisheries Management Act 1994*. Categories of programs funded by the Trusts include:
- aquatic habitat protection and rehabilitation
 - enforcement of fishing rules
 - fishing access and facilities
 - recreational fishing enhancement programs
 - recreational fishing education
 - research on fish and recreational fishing
 - recreational fishing havens.
- 5.24** Section 234 of the *Fisheries Management Act 1994* defines what Trust funds can be expended on including:
- fish stocking and other measures to enhance, maintain or protect recreational fishing
 - research into fish and their ecosystems
 - management and administration of recreational fishing
 - compliance with recreational fishing regulatory controls
 - consultative arrangements with recreational fishers
 - insurance coverage for landowners where recreational fishers use private land for freshwater fishing.⁴⁵⁷
- 5.25** The Expenditure Committees review new applications for funding and monitor the progress of programs currently funded by the Trusts. In 2008/09, the Committees reviewed over 170 new small and large grant applications. ACoRF ensures the expenditure recommendations from its sub committees are consistent with current Trust funding priorities and policies.
- 5.26** Membership on the Expenditure Committees is regionally based to ensure the benefits of the Trusts are distributed throughout NSW.⁴⁵⁸ The figures and tables in Appendix 1 show the regions applicable to each trust and the current membership of each trust committee.⁴⁵⁹

⁴⁵⁷ Answers to questions taken on notice, Mr Bryan van der Walt, Acting Manager, Recreational Fisheries, Industry & Investment NSW, 19 April 2010, Question 6, p 7.

⁴⁵⁸ Submission 1007, p 14.

⁴⁵⁹ I & I, <www.dpi.nsw.gov.au/fisheries/recreational/licence-fee/trusts/rfftec/about-rfftec> accessed 17 November 2010, and I & I, <www.dpi.nsw.gov.au/fisheries/recreational/licence-fee/trusts/rfstec/about-rfstec>, accessed 17 November 2010.

Criticisms of trust fund expenditure

5.27 While some of the criticisms of ACoRF, such as method of appointment, also applied to the Trust committees, there was little discernible dissatisfaction with the structure of these bodies. The fact that the Trust committees have regional representation may be a contributing factor in this regard.

5.28 A number of inquiry participants drew the Committee's attention to praiseworthy projects funded by the two Trusts. For example, Mr Stan Konstantaras, President, NSW Branch, Australian National Sportfishing Association, NSW Branch (ANSA), advised that important rock fishing safety and education material developed by ANSA had been funded by Trust fund grants.⁴⁶⁰

5.29 Professor David Booth, Councillor, Australian Marine Sciences Association – NSW (AMSA), said that his organisation was disappointed with the amount of Trust expenditure directed towards research:

We are disappointed with the trust's performance to date. It has been charged with the disbursement of \$12 million, but we feel it has done little to improve the understanding of the impact of fishing on communities, habitats and the health of fish stocks. The vast majority of funding seems to be spent on restocking or artificial reef programs.⁴⁶¹

5.30 As discussed in the previous chapter, while allocations to research can be used to leverage additional funding in that area, that opportunity does not generally exist for fishing enhancement or facilities programs.

5.31 Some recreational fishers argued that trust funds should be spent only on programs that directly benefited recreational fishers, as the funds were generated solely by the fees they paid. It was reasoned that projects such as environmental rehabilitation would normally be the core work and funded by other agencies as they benefit the overall state community.

5.32 In contrast to this position, Mr Peter Hemmings, Member, Hat Head Bowling and Amateur Fishing Club, argued that trust money should be directed to where it will achieve the greatest benefit:

From a personal perspective, sometimes I have difficulty in comprehending where the fund allocation from our licence money is going. To me, building fish tables and measuring stations is like having a house with a hole in the roof and you go out and buy a new lounge suite. I would sooner fix the hole in the roof. The issues that I see are mostly the real threats to the aquatic environment. Fix those issues first—issues such as rehabilitation of habitat, et cetera.⁴⁶²

⁴⁶⁰ Mr Stan Konstantaras, President, NSW Branch, Australian National Sportfishing Association, Evidence, 27 April 2010, p 50.

⁴⁶¹ Professor David Booth, Councillor, Australian Marine Sciences Association, Evidence, 27 April 2010, p 2.

⁴⁶² Mr Peter Hemmings, Member, Hat Head Bowling and Amateur Fishing Club, Evidence, 5 May 2010, p 14.

5.33 There were some concerns expressed over the amount of expenditure directed to some program categories at the expense of others. The strongest, and most frequently put, complaint from the recreational fishing sector related to what they characterised as blatant cost-shifting on the part of government departments.

5.34 The two trusts fund a number of departmental staff positions including 18 Fisheries and Compliance officers. For the 2009/10 year the combined allocation from Trust funds for these compliance officers was over \$2.2 million.⁴⁶³

5.35 Mr Peter Saunders, President, Underwater Skindivers and Fishermen's Association (USFA) was critical of trust funds being used for what the USFA, and many others, viewed as being core departmental activities:

The Underwater Skindivers and Fishermen's Association recommends that core funded and non-core funded activities of Fisheries be clearly delineated and that Fisheries should not be allowed to make applications to the Recreational Fishing Saltwater Trust and Recreational Fishing Freshwater Trust for funding of core activities.⁴⁶⁴

5.36 Mr Roy Privett, General Manager, Boating Industry Association of NSW (BIA), believed that cost-shifting was undermining the hard gained support among recreational fishers for the requirement for a fishing licence:

The way fishing licence revenue is expended must be revised and the process of cost-shifting from core government responsibilities onto the trust must be reversed. Cost-shifting is rapidly undermining the hard-gain support for the fishing licence accrued over many decades. I must stress that there is severe criticism of the cost-shifting that has occurred in this State and the original undertakings for the introduction of the licence have not been met.⁴⁶⁵

5.37 Mr Paul O'Connor, Principal Director, Fisheries and Compliance, Industry & Investment NSW (I & I), said that trust fund expenditure was partly guided by recreational fisher surveys. Mr O'Connor said that feedback indicated that the current balance between program categories was appropriate:

The other thing that happens, though, is we undertake surveys of recreational fishers to try to get some general indication from them as to what sorts of programs they want funded and that is used as guidance for the committees as well. In terms of whether the specific priorities should be research versus management versus habitat versus stocking programs, I think what we try to do is to try to get the balance about right. I think recreational fishers generically, judging by the survey results and the committees, in particular, basically I think the balance is about right. We get some

⁴⁶³ Submission 1007, Appendix 1, p 10.

⁴⁶⁴ Mr Peter Saunders, President, Underwater Skindivers and Fishermen's Association, Evidence, 27 April 2010, p 31.

⁴⁶⁵ Mr Roy Privett, General Manager, Boating Industry Association of NSW, Evidence, 30 August 2010, p 20.

really good research funded. For instance, we have done some great research on the survivability of fish that are released after capture and that is just a typical example of the sort of key research which has been done and which guides management actions.⁴⁶⁶

Committee comment

- 5.38** Notwithstanding the Department's view that recreational fishers believe the current funding balance to be appropriate, the Committee must acknowledge the strong feedback it received that indicated a large section of the recreational fishing sector is unhappy with trust funds being used for departmental staff positions.
- 5.39** The Committee notes the belief that monies generated by fishing licence fees appear to have come to be viewed by the department as the first potential source of funding when the need for additional departmental officers is identified.

Recommendation 17

That the NSW Government investigate the sufficiency of expenditure on recreational fishing compliance officers and that both Industry & Investment NSW and the fishing trusts establish a shared funding arrangement for funding compliance with regulatory controls .

Non-government recreational fishing organisations

- 5.40** The submission from the NSW Government notes that as well as taking advice from ACoRF, it consults with a range of recreational fishing organisations. The submission notes there are a number of organisations in NSW representing the interests of various recreational fishing activities. The NSW Government regularly interacts with these organisations to seek additional stakeholder input. Some of these groups include:
- NSW Council of Freshwater Anglers
 - Australian National Sportfishing Association NSW Branch
 - NSW Game Fishing Association
 - Recreational Fishing Alliance of NSW
 - Underwater Skindivers and Fisherman's Association
 - Australian Fishing Trade Association
 - NSW Fishing Clubs Association
- 5.41** I & I maintains a comprehensive database of over 900 fishing organisations and clubs for regular communication, including mailouts of discussion papers, codes of practice and

⁴⁶⁶ Mr Paul O'Connor, Principal Director, Fisheries and Compliance, Industry & Investment NSW, Evidence, 19 April 2010, pp 20-21.

consultation on specific issues. Issue based meetings are also held with fishing organisations and clubs, as required:⁴⁶⁷

There is the formal consultation that we do with our advisory council. There are a range of major recreational fishing organisations and fishing clubs. We maintain a comprehensive database of fishing organisations. Currently there are around 900 fishing clubs and organisations on that database throughout New South Wales. Of the 900 there are around 20 to 30 major recreational fishing organisations. We do mail outs to those fishing clubs and organisations when necessary. We have a recreational fishing newsletter called Newscast, which is sent out by email to anyone who wants to receive it, and again there are a lot of recreational fishing clubs and organisations on that email distribution list.⁴⁶⁸

- 5.42** The Committee received submissions and heard evidence from representatives and members of both recreational fishing organisations and associations and from individual fishing clubs of various sizes, and from individual fishers. Some associations represent the interests of specific sections of the recreational fishing sector and their membership can be comprised of individuals and/or a number separate fishing clubs. The Recreational Fishing Alliance of NSW for example, is comprised of a number of member associations.
- 5.43** Generally, these associations have formal mission statements and seek to actively engage with government to represent the views of fishers generally. They also partner with government in activities. They often describe themselves as a peak representative body in the field they represent.⁴⁶⁹
- 5.44** Individual fishing clubs are based on location and often on the form of fishing practiced by their members. As noted previously there are about 900 individual clubs and they can vary considerably in the size of their membership and level of organisation. They are primarily recreation-oriented and do not purport to speak on anyone's behalf other than their members. Some fishing clubs, but not all, elect to become members of a relevant association.
- 5.45** Mr Peter Turnell, Director, Fisheries Resource Management, Industry & Investment NSW, agreed that a single independent peak body able to represent the views of the recreational fishing community would be an asset in terms of communication with government:

I think a peak single body would be a good thing. It is a difficult question to answer without seeing the structure proposed but independent representative bodies, in my view, have to be independent of government. We are looking at similar arrangements with the commercial industry to see if that can improve communication and

⁴⁶⁷ Submission 1007, p 15.

⁴⁶⁸ Mr Bryan van der Walt, Acting Manager, Recreational Fisheries Programs, Fisheries and Compliance, Industry & Investment NSW, Evidence, 19 April 2010, p 16.

⁴⁶⁹ For example: Submission 943, Recreational Fishing Alliance of NSW, p 20; Mr Stan Konstantaras, President, NSW Branch, Australian National Sportfishing Association, Evidence 19 April 2010, p 57; Mr John Burgess, Executive Officer, Australian National Sportfishing Association, Evidence, 19 April 2010, p 57; Mr Karl Schaerf, Honorary Secretary, Central Acclimatisation Society, Evidence, 27 April 2010, p 22; Mr Saunders, Evidence 27 April 2010, p 30.

information flow. The Advisory Council on Recreational Fishing certainly is not an independent representative lobby group; it is an advisory council for the Minister on matters to do with recreational fishing.⁴⁷⁰

5.46 However, the majority of the estimated one million fishers in NSW are not a member of a fishing club or association. How an independent representative body could seek to represent their views is one of the issues examined in the following section.

The call for an independent representative body

5.47 In evidence Mr Steven Samuels, Vice President, NSW Council of Freshwater Anglers (COFA), said that over the last 30 years no other group has championed the aquatic environment more than recreational fishers, and yet somehow recreational fishers have come to be seen by many as the enemy of the aquatic environment rather than its champion.

5.48 Mr Samuels listed what he saw as the achievements of the recreational fishing sector. These include:

- the introduction of the fishing licence fee
- identification of the need for removal of commercial effort in estuaries
- the closure of the grouper fishery
- closed seasons for bass, estuary perch and Murray cod
- no-take legislation for silver perch, Macquarie perch, trout cod, eastern cod
- consistent support for lowering of bag limits and increase in size limits.

5.49 Mr Samuels argued that while the recreational fishing sector contributed more than any other group concerned with the aquatic environment it was the least influential:

It is time that anglers were acknowledged as having a significant interest in the aquatic environment and it is about time government and its departments met us at the table and offered us the same assistance it offers other interest groups. Our record indicates that we are after outcomes that provide a win, win, win: a win for the fish, a win for the environment and a win for us fishers.⁴⁷¹

5.50 It would be much easier for the recreational fishing sector to be 'met at the table' if it was united under a single representative body, and this is what has been overwhelmingly called for by inquiry participants. The following sections examine the features of an independent representative body that were most commonly expressed as being required.

⁴⁷⁰ Mr Peter Turnell, Director, Fisheries Resource Management, Industry & Investment NSW, Evidence, 19 April 2010, p 16.

⁴⁷¹ Mr Steven Samuels, Vice President, NSW Council of Freshwater Anglers, Evidence, 30 August 2010, p 38.

Single effective voice

- 5.51** Mr McGlashan stressed that the recreational fishing community needed a single effective voice to represent it. He compared the current situation in NSW, as he saw it, to that in Victoria and the Northern Territory:

Victoria has VRFish. The biggest problem we have in New South Wales is a lack of representation. We are very fragmented with a bit here and a bit there. We need a single council that works with all these areas. We have a Game Fishing Association, the Recreational Fishing Alliance and the Fly Fishing Association. We need a single body. We are receiving mixed messages as opposed to only one message. The Northern Territory does it really well; it goes to the government with one voice. I think what we need is one voice that speaks collectively for everyone.⁴⁷²

- 5.52** The Committee took evidence from Mr Martin Salter, former United Kingdom Parliamentary Spokesperson for Angling, who was instrumental in establishing the UK Angling Trust and of the UK Charter for Angling. Mr Salter said he saw, in his country, the need for the angling community to have a single voice that could be heard by government. He said that given the various sectors within the angling community, it was a difficult process that required someone to take charge:

It is very difficult for Ministers and for Governments to get a coherent voice from any special interest group—angling, football, cricket, whatever—if the governing bodies themselves are not coherent, they are falling out, there is not a common program. I was very keen to see Britain's three million anglers start punching their weight, because they were not and clearly are not in Australia, and they were not punching their weight because they did not have a unified voice. I spent a lot of time knocking heads together, pointing out artificial distinctions between fly fishermen, which in some aspects of Britain can come from different socioeconomic classes, the coarse angler and the sea angler are actually the same—they all require a healthy sustainable environment to practise their sport.

...It took about three years. We set up a shadow organisation called the Fisheries Angling and Conservation Trust, but eventually all organisations agreed to submit their sovereignty to a greater collective good and we now have a single voice, we are now punching our weight...⁴⁷³

- 5.53** The Committee notes the divide that existed between different angling groups in the UK. It cannot say for certain that there are no issues of conflict between different recreational fishing sectors in NSW, but it does acknowledge that there was a general uniformity in the concerns, views and desires presented to it during the Inquiry.

Independence

- 5.54** A number of participants said that a current failing was that there was little capacity for the recreational fishing sector to legally pursue matters that could have a significant negative impact on the fishing environment. In evidence Mr Len Olyott, Chief Executive Officer,

⁴⁷² Mr Al McGlashan, Evidence, 27 April 2010, p 53.

⁴⁷³ Mr Martin Salter, former United Kingdom Parliamentary Spokesperson for Angling, Evidence, 30 August 2010, p 12.

(RecFish Australia), noted the different role that a representative and advocacy body can play to that performed by the Advisory Council:

In fact, the council [ACoRF] raised the grey nurse shark case. In that case the council could not go into a legal case. It is a construct of the Government and it would be very difficult for it to pursue a legal case. That is where RecFish Australia stepped in.⁴⁷⁴

- 5.55** The submission from the COFA noted that, disappointingly, Trust funds could not be used for legal advice or court action in recreational fishing matters.⁴⁷⁵ In evidence Mr Samuels told the Committee that he had been advised that there was no chance of trust funds being available for his organisation to challenge a matter in the Land and Environment Court, concerning an application to pump wastewater into a river environment.⁴⁷⁶
- 5.56** While an independent body would not be constrained in pursuing legal matters in the way that an advisory body would, it would still require access to funds.
- 5.57** The New Zealand Fish and Game Council is an example of an independent representative body that is empowered to advocate generally and in any statutory planning process the interests and aspirations of anglers and hunters.⁴⁷⁷ The Council has the independence and funding capacity to engage in disputes regarding industrial and development threats to habitat and fish stocks. The functions and powers of the Fish and Game Council are examined further later in this chapter.

Funded by Government

- 5.58** A number of inquiry participants⁴⁷⁸ argued that recreational fishers deserved their own independent group funded by government, similar to other advocacy groups. In evidence, Mr James Harnwell, Editor and Publisher, *Fishing World*, pointed to support provided to the Nature Conservation Council of NSW and reasoned that recreational fishers should benefit in the same manner:

I think it is very important that there is some sort of representative body looking after fishermen, putting forward their points of view, like various green groups and the Nature Conservation Council, for example, which is very proactive in doing what it does. I understand that it gets significant funding from the Government to do its job. I would like to see some sort of funding provided by the Government to give recreational fishermen a voice—to people such as you, to the media in general—to professionally put forward our points of view. I think if other interest groups, green groups and other sporting groups can get government money to do that, I find it a bit unfair if recreational fishermen are not given the same largesse.⁴⁷⁹

⁴⁷⁴ Mr Leonard Olyott, Chief Executive Officer, RecFish Australia Evidence, 19 April 2010, p 40.

⁴⁷⁵ Submission 913, Council of Freshwater Anglers, p 7.

⁴⁷⁶ Mr Samuels, Evidence, 30 August 2010, p 44.

⁴⁷⁷ *Conservation Act 1987* (New Zealand), sec 26C(g), sec 26Q(1)(e).

⁴⁷⁸ For example: Mr Gregory Davis, President, Canberra Fisherman's Club, Evidence, 27 May 2010, p 79.

⁴⁷⁹ Mr James Harnwell, Editor and Publisher, *Fishing World*, Evidence, 29 April 2010, p 20.

- 5.59** In order for the recreational fishing sector to put professionally put forward its point of view, similar to other advocacy/interest groups it needs to be provided with adequate funds. It must not be unduly restricted in the use of these funds, and be able to commission legal or scientific work to develop or defend its position on issues.

Elected by members

- 5.60** There was an overwhelming call, particularly from what could be termed the more average individual fisher/fishing club member, that all recreational fishers need to be involved or have the opportunity to be involved in electing the members of their representative body.
- 5.61** Mr Peter Hughes, Public Officer, Junction Inn Fishing Club, was one who expressed this commonly held view to the Committee:

Over the years I have had a fair bit to do in this area. I have been a committee member on quite a few different angling advocacy groups and I have dealt with various government departments on environmental issues, et cetera. In recent years I have been a bit disenchanted and disappointed about the fact that no peak body is fully representative of anglers—a body elected by anglers.⁴⁸⁰

- 5.62** The call for an election process was often borne out of the criticism of the fact that membership of ACoRF was by way of Ministerial appointment. Mr Hemmings told the Committee that while-ever members of ACoRF were appointed by the Minister rather than elected they will lack credibility with recreational fishers.⁴⁸¹

Regional representation

- 5.63** It was put by a number of inquiry participants that if a single body was to effectively represent all the fishers throughout the State some form of regional representation must be built into the membership structure.⁴⁸² Mr Konstantaras noted that regional representatives should foster interaction between the body and its constituents:

Yes, elected members definitely to come from around the State and pick up some of those regional areas that we need to focus on as well, and again get that message out—put the onus back on us to get that message out to the recreational fishing anglers out there. There are supposedly a million of us that fish at least once a year in New South Wales.⁴⁸³

Retain or replace ACoRF?

- 5.64** The submission from Recfish Australia advocated the retention of the current advisory council and the creation of a strong peak body that is able to effectively engage the disparate

⁴⁸⁰ Mr Peter Hughes, Public Officer, Junction Inn Fishing Club, Evidence, 4 May 2010, p 62.

⁴⁸¹ Mr Hemmings, Evidence, 5 May 2010, p 14,

⁴⁸² For example: Mr Geoffrey Williams, Member and Treasurer, Lake Cathie Fishing Club, Evidence, 5 May 2010, p 36.

⁴⁸³ Mr Konstantaras, Evidence, 27 April 2010, p 43.

recreational fishing interest groups and provide a wide-ranging view of the recreational fishing community.⁴⁸⁴

- 5.65** Mr Poole said a new body could also feed into the current ACoRF process. Mr Poole also expressed the hope that one day the Government could go to a single committee in an advisory, information gathering and truly representational capacity. However he noted that you have to find the right mechanism to achieve a single body:

The mechanism is how to do it. It is one committee. We try to reduce costs, we try to be effective in our communications and we try to make sure that people understand what is being discussed. Talk to one group here, but there may be misinformation talking to another group there. The information is to try to relay the one message at the same time.⁴⁸⁵

- 5.66** The Committee believes that it would be difficult to combine an advocacy and advisory role within a single structure.
- 5.67** A number of inquiry participants called for an entirely new approach to the current representational and management structure, that would render the question of whether ACoRF should be retained redundant. This issue is examined at the end of this chapter.

Should qualifications be required?

- 5.68** As discussed there was a strong view that for a new independent body to be truly representative it must be formed on the basis of an election process open to the entire recreational fishing community. However, it was also argued that given the importance of the role of this new body it was vital that its members had the skills and experience to deal with the major issues facing recreational fishing.⁴⁸⁶
- 5.69** Mr Konstantaras argued that members of any new representative body would be best drawn from the current existing associations as they have displayed commitment to and experience in addressing recreational fishing issues:

The members should come from the major associations out there. Again, the guys who are in the trenches do all this work on behalf of the Government: associations like ANSA, the Council of Freshwater Anglers, the spearos; these guys do a lot of work—

...Again, it is these organisations and associations that are out there day in and day out doing all the legwork. Joe Blow on the street does not really care what goes on. He goes and buys his licence and walks away and screams when we get a bag limit review or we get a closure of a marine park. Again, we have proven our stewardship of recreational fishing in this State over the years and it is something that most of us hang our hat on—the amount of work that we do behind the scenes, again as volunteers.⁴⁸⁷

⁴⁸⁴ Submission 990, Australian Recreational and Sport Fishing Industry Confederation, p 3.

⁴⁸⁵ Mr Poole, Evidence, 30 August 2010, p 32.

⁴⁸⁶ For example: Mr Schaerf, Evidence, 27 April 2010, p 27.

⁴⁸⁷ Mr Konstantaras, Evidence, 27 April 2010, p 43.

- 5.70** Mr Brown also noted that the majority of people who go fishing once or twice a year have no interest in belonging to an organisation. He believed that the majority of really committed fishers belong to an organisation of some sort or another, from a club to a peak body – and that generally those sorts of people make the best appointments to councils.⁴⁸⁸
- 5.71** However, the Committee also notes the advice it received that while there are one million fishers, when the ten to fifteen positions to sit on ACoRF are advertised, the department typically receives about 30 to 40 applications – and that most of the applicants are affiliated to recreational fishing organisations or clubs.⁴⁸⁹ This practical reality may tend to support the contention of Mr Konstantaras and Mr Brown.
- 5.72** The Committee believes that the opportunity to become a member of a State-wide representative body should be open to anyone willing and able to make that commitment.

Should other groups be represented?

- 5.73** A number of inquiry participants from the recreational sector were opposed to outside organisations, notably from those viewed as being anti-fishing, having representation on ACoRF or any new recreational fishing representative body. However, other inquiry participants held the opposite view. Mr Konstantaras was one who thought any new independent body should include representation from the commercial fishing sector.⁴⁹⁰ The Chapter on commercial fishing examines the need for greater dialogue and cooperation between the recreational and commercial fishing sectors.
- 5.74** Mr McGlashan argued that all organisations, despite their contrary views on some matters, that are ultimately concerned with the protection and sustainable use of the marine environment should be included:

On that note, I want the commercial people, the conservationists and those sorts of people involved. I sat down with Ben Birt from the Nature Conservation Council. At the end of the day many of these guys have the same mentality. However, a few hardliners in all areas seem to be disrupting things. At the end of the day we all want the marine environment to be the best that it can be.⁴⁹¹

- 5.75** The Committee must note that if the membership of a new independent body was to be determined by popular election it would probably be unlikely that representatives from 'non-recreational fishing' organisations would be appointed. At the same time there is nothing that would stop an independent recreational fishing body from engaging with other stakeholder groups, either formally or informally, and indeed this should be encouraged.

⁴⁸⁸ Mr Brown, Evidence, 29 April 2010, p 39.

⁴⁸⁹ Mr Bryan van der Walt, Acting Manager, Recreational Fishers Programs, Fishers and Compliance, Industry & Investment NSW, Evidence, 3 September 2010, p 24.

⁴⁹⁰ Mr Konstantaras, Evidence, 27 April 2010, p 49.

⁴⁹¹ Mr McGlashan, Evidence, 27 April 2010, p 53.

The challenge in the process

- 5.76** The submission from RecFish Australia noted that there are challenges in forming a single peak body in NSW. In evidence Mr Olyott noted that the first challenge was to effectively represent the large and diverse fishing population in this State:

Recreational fishing is not just going and throwing a line and catching a fish. We have spear fishers, we have beach fishers, we have netters, we have a great variety which can probably more appropriately be termed special interest groups rather than a peak body, and I guess that is what differentiates a peak body from these special interest groups. So those are some of the challenges where those groups will possibly feel alienated, misaligned, if their interest is quite small they may not feel that they have adequate presence at a peak body.⁴⁹²

- 5.77** Mr Olyott further noted that a responsible peak body will also face the challenge that it will invariably need to make decisions that are responsible but may not necessarily please all sections of the fishing population. Consultation and communication and open explanation of the rationale for decisions taken are key in this regard.

- 5.78** Mr Salter said that while establishing the UK Angling Trust was a difficult process, it was aided by the fact that in the UK people have to join an angling club in order to access waters. This made it easier to establish a body that could be seen to be truly representative of the entire recreational fishing community. He noted that the membership of fishing clubs in NSW is relatively small.⁴⁹³ This could make it difficult to engage with the majority of the fishing population.

- 5.79** In evidence Mr Hughes said that he was in favour of a peak fishing body selected by popular election. He suggested a process similar to election to the Board of the NRMA:

I think there should be a peak body that represents anglers and is elected by anglers. That election process could be part of the feedback that I just spoke about before. If you have a feedback form, people might like to nominate to be on that peak committee. Somehow or other there is an election and people can be emailed out an election form and asked, "These are the nominees for the peak committee. Who do you vote for?" Similar to what happens with the NRMA Board, or something like that, where people nominate for it and they are elected.⁴⁹⁴

- 5.80** The Committee notes that suggestion made by Mr Hughes is predicated on having a means to easily and effectively communicate with the entire recreational fishing population – this need is further examined in Chapter 7.

Committee comment

- 5.81** The Committee was advised that I & I is to commission an examination of how an independent representative body, capable of negotiating with government, could be established for the commercial fishing sector:

⁴⁹² Mr Olyott, Evidence, 19 April 2010, p 39.

⁴⁹³ Mr Salter, Evidence, 30 August 2010, pp 14-15.

⁴⁹⁴ Mr Hughes, Evidence, 4 May 2010, p 64.

We have a similar structure with the commercial fishing industry where there is a peak commercial representative group. They have recently been discussing the merits of having a representative group that is not ministerially appointed, in other words, a group that they choose themselves, a representative voice, if you like, to negotiate with government. They have asked us to engage a consultant to have a look at how that might work for the commercial fishers to have their own representative group. I know there have been experiences in other jurisdictions around Australia and this consultant will be having a look at how that might work for the commercial industry.⁴⁹⁵

- 5.82** As noted in paragraph 5.45, Industry & Investment NSW also believe an independent peak body for the recreational fishing sector is of merit. It is clear that the current representative system for recreational fishers is not meeting their needs.
- 5.83** The Committee believes that the process being undertaken for the commercial fishing sector should also be undertaken for the recreational fishing sector. In doing this I &I should first consult with recreational fishing organisations to determine a proposed structure.

Recommendation 18

That Industry & Investment NSW in consultation with recreational fishing organisation, indigenous fishing representatives and other relevant bodies review the current structure of the Advisory Council on Recreational Fishing.

That the Advisory Council on Recreational Fishing develop a communication strategy so that current information can be made available in a timely manner to the wider fishing community.

⁴⁹⁵ Mr Peter Turnell, Director, Fisheries Resource Management, Industry & Investment NSW, Evidence, 3 September 2010, p 24.

Chapter 6 Fishery programs

The NSW Government has and continues to implement a range of fisheries programs designed to improve recreational fishing opportunities that are consistent with the principles of ecologically sustainable development. This chapter examines issues relating to recreational fishing havens, fish stocking, artificial reefs and fish aggregating devices.

Overview

6.1 The Department of Fisheries and Compliance delivers a number of programs to enhance the experience of recreational fishers across the State. Mr Paul O'Connor, Principal Director, Fisheries and Compliance, Industry & Investment NSW (I & I), told the Committee that a key role of the Department of Fisheries and Compliance was to promote quality recreational fishing opportunities for the estimated one million people who go fishing each year in New South Wales:

The department delivers a wide range of programs to meet the needs of anglers, including the creation of recreational fishing havens; the enhancement of fishing through fish-stocking programs, the construction of artificial reefs and the deployment of fish aggregation devices; the construction of improved angler facilities; the conduct of fishing clinics and fisher education and volunteer programs, and the distribution of advisory materials...⁴⁹⁶

6.2 There was debate during the inquiry about the ecological sustainability of certain programs. Inquiry participants offered conflicting accounts on the impact and success of recreational fishing havens, fish stocking, artificial reefs and fish aggregating devices.

Recreational fishing havens

6.3 The State Government has established 30 recreational fishing havens (RFHs) along the NSW coast. These 30 estuarine areas became RFHs in May 2002, and are largely free of commercial fishing.⁴⁹⁷ The Committee was advised that the primary role of RFHs was to deal with the allocation of fish catch between the commercial and recreational fishing sectors, and that RFHs were not designed as biodiversity protection measures.⁴⁹⁸ Two surveys have been conducted on the data of two RFHs, firstly in 2002 and then in 2005.

⁴⁹⁶ Mr Paul O'Connor, Principal Director, Fisheries and Compliance, Industry and Investment NSW, Evidence, 19 April 2010, p 2.

⁴⁹⁷ I & I NSW, <www.dpi.nsw.gov.au/fisheries/recreational/info/rfh>, accessed 27 October 2010.

⁴⁹⁸ Mr Peter Turnell, Director, Fisheries Resource Management, Industry & Investment NSW, Evidence, 3 September 2020, p 20.

6.4 RFHs are located in the following areas:

- Tweed River
- Richmond River
- Clarence River
- Belliger River
- Deep Creek
- Hastings River
- Camden River Haven
- Manning River
- Lake Macquarie
- Botany Bay
- St Georges Basin
- Lake Conjola
- Narrawallee Inlet
- Burrill Lake
- Lake Tabourie
- Tuross Lake (including Tuross River and Borang Lake)
- Lake Brunderee
- Dalmeny Lake (also known as Mummaga Lake)
- Little Lake (also known as Little Rilba Lake and Hoyers Lake)
- Bermagui River
- Nelson Lake (Nelson Lagoon)
- Bega River
- Back Lake (Back Lagoon)
- Pambula River
- Yowaka River
- Nullica River
- Towamba River (also known as Kiah River)
- Wonboyn Lake, River and Womboyn Beach to 500m from mean high water level.
- Meroo Lake
- Tomaga River.⁴⁹⁹

6.5 The Tweed River, Richmond River, Clarence River, Camden Haven River and Manning River are not completely closed to commercial fishing. All other RFHs are completely closed. The map on the following page illustrates the location of RFHs along the NSW coast. As it can be seen, RFHs are predominately along the south coast of the State.

⁴⁹⁹ Submission 1007, NSW Government, Appendix 7, p 25-26.

Figure 3 Map of Recreational Fishing Havens, NSW⁵⁰⁰



⁵⁰⁰ Submission 1007, Appendix 7, p 27.

- 6.6** The NSW Government submission states that the areas were chosen after consultation with relevant stakeholders and buy-outs offered to affected commercial fishers:

Estuarine areas along the NSW coast were selected as recreational fishing havens following a comprehensive community consultation process, involving all relevant stakeholders, in 2001 and 2002.

Commercial fishers that were affected were made a monetary offer to surrender their commercial fishing entitlements. The offers were calculated from the history of the fishing business, or in some cases, the estimated market value. A total of 251 fishing businesses were purchased through the buyout process.⁵⁰¹

- 6.7** Certain inquiry participants expressed frustration with the consultation process for RFHs. For example, Port Stephens ECOfishers was disappointed that the significant amount of time expended by its local recreational fishing community to secure a RFH in Port Stephens was not successful.⁵⁰²
- 6.8** There was a great deal of evidence presented to the Committee about the need for additional RFHs. In evidence, Mr John Burgess, Executive Officer, Australian National Sportfishing Association, noted that there have not been any new RFHs for the last seven to eight years.⁵⁰³
- 6.9** The NSW Government submission stated that any approach for additional recreational fishing havens will be considered on a case-by-case basis and take into account stakeholder and community views, as well as seafood supply.⁵⁰⁴ I & I advised that it currently considers there to be a good balance between the level of commercial fishing and provision of local seafood along with the quality recreational fishing opportunities available in NSW.⁵⁰⁵

Concerns regarding recreational fishing havens

- 6.10** Among inquiry participants there were two primary concerns expressed regarding RFHs. Representatives from the commercial fishing sector were opposed to RFHs because they viewed them as another unfair restriction on the industry. Representatives from the conservation sector questioned whether RFHs provided any benefit in terms of improved sustainability for fish stocks. Studies of two RFHs are further examined in section 6.40.
- 6.11** Members of the commercial fishing industry argued that RFHs are poorly conceived concepts that unfairly marginalise professional fishers. Ms Mary Howard, Director, NSW Women's Industry Network Seafood Community, queried the decision to implement RFHs believing they were nothing more than a simple and inappropriate method of trying to resolve the conflict between recreational and commercial fishers.⁵⁰⁶

⁵⁰¹ Submission 1007, Appendix 7, p 28.

⁵⁰² Submission 1003, Port Stephens ECOfishers, p 5.

⁵⁰³ Mr John Burgess, Executive Officer, Australian National Sportfishing Association, Evidence, 19 April 2010, p 64.

⁵⁰⁴ Submission 1007, p 17.

⁵⁰⁵ Answers to written questions on notice, 5 May 2010, Mr Bryan van der Walt, Acting Manager, Recreational Fisheries Programs, Industry & Investment NSW, Question 8, p 16

⁵⁰⁶ Submission 522, Ms Mary Howard, Director, NSW Women's Industry Network Seafood Community, p 4.

- 6.12** The NSW Hawkesbury River District Fishermens Co-operative also expressed frustration at the social costs of cordoning off RHF's from commercial fishing:

Regarding the gaps in recreational fishing programs, it would be far better to concentrate on programs that reach a goal that is good for all in the community, as well as concentrating on programs which unite rather than divide. The concept of Recreational Fishing Havens is divisive in that it seeks to eliminate other activities, namely commercial fishing, and isolate an area for the purpose of recreational fishing alone. This does not bring communities together.⁵⁰⁷

- 6.13** The impact of the establishment of recreational fishing havens on the commercial fishing industry is examined in detail in Chapter 11. A number of inquiry participants from the commercial sector suggested that commercial fishers be allowed limited access to RFHs to harvest species not targeted by the recreational sector. This proposal is examined later in this chapter.

- 6.14** The Committee heard that banning commercial interests from accessing RFHs unfairly impacts on people who do not fish but enjoy eating locally-caught seafood. Mr Ron Stewart, commercial fisher, argued that no more RFHs should be established because they deny people who do not fish the opportunity for locally-caught seafood at reasonable prices. Mr Stewart continued 'further lockouts will only collapse the Cooperatives, weaken the Sydney Fish Market and encourage cheap overseas product which we can't compete with.'⁵⁰⁸ Other submissions expressed similar sentiments.⁵⁰⁹

- 6.15** The Committee was presented with the argument that RFHs only support a select minority of the community. The Sydney Fish Market said that RFHs '... result in the reallocation of a community resource from 90 per cent of the population to a fortunate 1 per cent.'⁵¹⁰ The Sydney Fish Market continued to describe the impact RFHs have had on the commercial fishing industry:

Prior to RFHs, estuaries such as Botany Bay, Lake Macquarie, Hastings River, St Georges Basin and many more were major sources of seafood. The harvest from these four estuaries alone was over 1,000 tonnes p.a. and the harvest was sustainable.

The effect on SFM [Sydney Fish Market] and Fishermen's Cooperatives along the NSW coast has been profound. It has been compounded by other constraints on resource access such as marine parks, and factors affecting fish stocks such as urban run-off and sewage, agricultural pollution and destruction of habitat and breeding areas.⁵¹¹

⁵⁰⁷ Submission 86, Hawkesbury River District Fishermens Co-operative, p 2.

⁵⁰⁸ Submission 101, Mr Ron Stewart, p 1.

⁵⁰⁹ For example: Submission 781 Mr A.I. Stewart, p 1; Submission 782, Mr D. Stewart, p 1; Submission 803, Professional Fishermen's Association, pp 11-12.

⁵¹⁰ Submission 786, Sydney Fish Market, p 1.

⁵¹¹ Submission 786, p 2.

- 6.16** The Sydney Fish Market stressed its increased reliance on overseas products since the establishment of RFHs stating 'following the declaration of RFHs in May 2002 the supply of NSW harvested product to SMF [Sydney Fish Market] fell to a mere 8000 tonnes by 2007, representing only 60 per cent of the SFM's total product.'⁵¹²
- 6.17** The Australian Conservation Foundation was also concerned about the potential risk to the availability of local seafood for consumers, and viewed RFHs as simply excluding one form of fishing for the benefit of the other :
- Recreational fishing havens may benefit anglers but do not necessarily improve the health of marine life as total recreational catches can be large, sometimes larger than commercial catches... This exclusion of commercial fishing risks reducing the availability of quality local seafood to NSW fish markets and seafood consumers. Any effective fisheries management of estuaries should consider the impact of the total combined catch of recreational and commercial fishing in the development of management and protection plans rather than simply excluding one form of fishing for the benefit of the other.⁵¹³
- 6.18** The Committee heard that further research into RFHs was needed, particularly to examine the impact of the reallocation of commercial fishing pressure in waters adjacent to RFHs. For example, the Ballina Fishermen's Cooperative called for greater consultation and scientific research to be undertaken before any additional RFHs are created.⁵¹⁴ Mr Wayne Hogan, Member, Australian National Sportfishing Association, also called for more research into RFHs. Mr Hogan said:
- I would like to see a review of unintended consequences from the establishment of recreational fishing havens. As a result of the establishment of recreational fishing havens on the south coast and the subsequent ceasing of professional fishing in those areas there has been an increase in professional fishing in areas like the Shoalhaven River and Lake Illawarra. This has had a detrimental effect on fish stocks in those areas.⁵¹⁵
- 6.19** Similarly, Mr Richard Tilzey, retired fisheries scientist, said that while he advocated the creation of RFHs he had noted the increase of commercial activity in neighbouring waters:
- I support the creation of Recreational Fishing Havens (RFHs) but note that, despite fishing permit buy-outs, they are leading to increased commercial fishing pressure in adjacent waters. For example, here on the south coast the creation of the Tuross Lakes and Bega River RFHs has seen a marked increase in commercial netting effort in Wallaga Lake.⁵¹⁶
- 6.20** The impact and efficacy of the buy-out of commercial fishing interests that accompanied the creation of RFHs is also examined in Chapter 11.

⁵¹² Submission 786, p 2.

⁵¹³ Submission 854, Australian Conservation Foundation, p 3.

⁵¹⁴ Submission 825, Ballina Fishermen's Cooperative, p 2.

⁵¹⁵ Submission 848, Mr Wayne Hogan, Member, Australian National Sportfishing Association, p 2.

⁵¹⁶ Submission 960, Mr Richard Tilzey, retired fisheries scientist, p 5.

- 6.21** Inquiry participants from the conservation sector questioned whether RFHs would prove to be ecologically sustainable and called for the NSW Government to conduct further research into the desirability of these areas.
- 6.22** The Australian Marine Sciences Association – NSW (AMSA) was critical of what it perceived as hypocrisy on the part of recreational fishers who claim that there is ‘no science’ behind marine parks yet were in favour of RFHs.⁵¹⁷
- 6.23** In evidence Professor David Booth, Councillor, Australian Marine Sciences Association – NSW and Professor Maria Byrne, Member, Australian Marine Sciences Association – NSW, both called for further research on the effectiveness of RFHs.⁵¹⁸ Professor Byrne went so far as to suggest that RFHs could potentially constitute a threat to fish stocks:

My understanding of recreational fishing havens is to improve the opportunities for recreational fishers. That is the bottom line, I would have thought. To improve the opportunity for recreational fishers, you want to make sure that those fish come back, are sustainable and that they are extracted in a sustainable manner. I am supporting the fish havens, absolutely; but I would like to see some research done to show how they are effective with respect to maintaining sustainable catch for generations to come. There is no point having a recreational fish haven now when everyone presently enjoys the extraction and bringing a fish home for tea. But if in 20 years time my children cannot go and get a fish to bring home for tea, then I would be concerned.⁵¹⁹

- 6.24** I & I advised that the objective of the establishment of RFHs was to promote recreational fishing opportunities, including increased social benefits by providing grounds for recreational fishing only as well as potentially enhancing the quality of the recreational fishing catch.⁵²⁰ The following section examines whether RFHs have achieved this objective and the research undertaken to date on their impact on the quality of the recreational fishing catch

Support for recreational fishing havens

- 6.25** Inquiry participants from the recreational fishing sector overwhelmingly supported the establishment of RFHs and many called on the NSW Government to establish more of these areas. The Laurieton United Servicemans Club Fishing Club, North Haven Bowling Club Fishing Club, Lake Cathie Bowling Club Fishing Club, Kendall Fishing Club and Laurieton Hotel Fishing Club all described RFHs as welcome and successful initiatives and recommended that recreational fishing licence monies be used for more commercial buy-outs.⁵²¹

⁵¹⁷ Submission 978, Australian Marine Sciences Association – New South Wales, p 3.

⁵¹⁸ Professor David Booth, Councillor, Australian Marine Sciences Association - NSW, Evidence, 27 April 2010, p 3.

⁵¹⁹ Professor Maria Byrne, Member, Australian Marine Sciences Association - NSW, Evidence, 27 April 2010, p 7

⁵²⁰ Answers to written questions on notice, 5 October 2010, Mr Bryan van der Walt, Acting Manager, Recreational Fisheries Programs, Industry & Investment NSW, Question 9, p 18.

⁵²¹ Submission 89, Laurieton United Servicemans Club Fishing Club, North Haven Bowling Club Fishing Club, Lake Cathie Bowling Club Fishing Club, Kendall Fishing Club, Laurieton Hotel Fishing Club, p 2.

- 6.26** Similarly, Mr Reg Sinclair, recreational fisher, commended the implementation RFHs and called on the Government to expand the program to eventually embrace all coastal estuaries, lagoons, and rivers.⁵²² While, Mr Ron Swinburn, another recreational fisher, in also calling for more RFHs, argued that the recreational fishing industry will contribute more to the economy:

What is needed is more **Professional Fishing Free** [emphasis as per original] Zones.

Look what has happened in Sydney Harbour and Lake Macquarie since they were declared off limits for professionals. All the reports I get say the fishing has never been better for amateurs.

While we all agree declining fish stocks are making Pro Fishing a cottage industry anyway, Recreational fishing is a booming industry resulting in not only revenue from Licences, but Boat and Trailer registrations and a massive Fishing Tackle industry.⁵²³

- 6.27** The Southern Bass Fishing Club also espoused the argument that the relative greater economic benefit from increased recreational fishing opportunities justifies the creation of more RFHs, at the expense of commercial fishing operations:

Southern Bass would like to see the buyout of commercial fishermen from Lake Illawarra, Shoalhaven River and the Hawkesbury River/Pittwater system. The buyout is to cover all forms of commercial fishing with the exception of oyster farming...

We are of the opinion that recreational fishing would be of a higher value to the overall economy than the professional fishing sector. This is based on the potential increase from tourism, accommodation, the sale of boats, fuel and fishing tackle etc.⁵²⁴

- 6.28** To counter concerns regarding the non-fishing public's need for fresh, local fish at affordable prices, the Southern Bass Fishing Club suggested that aquaculture projects should be created in appropriate areas.⁵²⁵ The potential for increased investment in aquaculture is examined in Chapter 11.

- 6.29** Mr Steve Tooley, recreational fisher, suggested that RFHs play an important environmental role in protecting juvenile fish from commercial fishing interests:

Recreational Fishing Havens are working and are an obvious success, and there should be more of them. Apart from the obvious plus of keeping recreational anglers happy, they are a sanctuary for juvenile fish, safe from the danger of nets, which are a non-discriminating form of fish gathering.⁵²⁶

- 6.30** The author of Submission 935 also cited environmental concerns to support his recommendation that RFHs be declared in all rivers, estuaries and broadwaters, the author

⁵²² Submission 767, Mr Reg Sinclair, recreational fisher, p 2.

⁵²³ Submission 777, Mr Ron Swinburn, recreational fisher, p 1.

⁵²⁴ Submission 770, Southern Bass Fishing Club, p 1.

⁵²⁵ Submission 770, p 1.

⁵²⁶ Submission 823, Mr Steve Tooley, recreational fisher, p 1.

also noted that it would improve access for those recreational fishers that do not have the capacity for offshore fishing:

All rivers, estuaries, broadwaters etc should be solely Rec Fishing Havens so as to cater for all generations of families to enjoy (not everyone has the availability of offshore fishing)

This would ensure the rivers would stay as breeding grounds for the sea, and ensure that the ocean going professional fishermen would get reasonable size fish and crustaceans from the sea. The rivers are the lifeblood and nursery for the ocean.⁵²⁷

- 6.31** In his submission to the Inquiry Mr John Newbery, former member, NSW Fisheries Conservation and Assessment Council, noted that anecdotal evidence suggests that RFHs have had a positive effect on fish stocks:

Anecdotal reports suggest that the Havens have had an extremely positive effect on fish numbers in their respective areas. Closing more (all?) NSW estuaries to netting should do more for fish species conservation and consequent local economic stimulation than creating any number of small no-take zones in MPAs.⁵²⁸

- 6.32** The Canberra Fisherman's Club also referred to anecdotal evidence about the marked increase in fish stocks in RFHs and supported extending the RFH program:

The CFC is a strong supporter of Recreation Fishing Havens (RFHs). Anecdotal evidence points to a dramatic improvement in catch rates in the area where commercial fishing has been removed. There has been significant improvement to fishing in the RFHs established in rivers on the Far South Coast, and also in the Tabourie and Burrill Lakes.

The CFC contends that more RFHs should be established along the New South Wales coastline. An immediate area of concern is the New South Wales coast from the southern end of the Batemans Marine Park to the New South Wales - Victorian border. This area should be made a RFH as a matter of priority. However, unlike previous RFHs, the CFC believes that it should be at government expense.⁵²⁹

- 6.33** Mr Geoff Allen, recreational fisher, said that he would like to see the Shoalhaven River and parts of the Hawkesbury River and the Pittwater area be considered as RFHs.⁵³⁰ Mr Allen argued that such moves would enhance the experience of recreational fishers, preserve fish stocks and leave adequate provisions for commercial fishers.⁵³¹

- 6.34** The joint submission from the Australian Fishing Trade Association & Boating Industry Association of NSW (AFTA & BIA) raised the concern that the relatively small size of some

⁵²⁷ Submission 935, Name suppressed, p 2.

⁵²⁸ Submission 16, Mr John Newberry, former member, NSW Fisheries Conservation and Assessment Council p 3.

⁵²⁹ Submission 929, Canberra Fisherman's Club, p 17.

⁵³⁰ Submission 493, Mr Geoff Allen, recreational fisher, p 2.

⁵³¹ Submission 493, p 2.

RFHs coupled with their proximity to increased commercial fishing effort was limiting the effectiveness of those RFHs to provide an improved recreational fishing opportunity.⁵³²

- 6.35** AFTA & BIA suggested that the NSW Government establish more RFHs, in particular they argue that new RFHs should be located close to major population centres:

The best options for new RFHs include the Shoalhaven River system, Lake Illawarra, the Macleay River and Wallis Lake. All are sufficiently large to be effective. The first two estuaries are located close to major population centres of Wollongong and Nowra. Wallis Lake and the Macleay Rive should also be considered due to their size and proximity to Newcastle, Taree and the rapidly growing mid north coast. There are also many intermittently opening lagoons on the south coast, which if protected from commercial fishing as RFHs could be stocked and managed to produce excellent recreational fisheries.⁵³³

- 6.36** The Committee received conflicting anecdotal evidence regarding whether RFHs have resulted in greater fish stocks and marine biodiversity, particularly with respect to the Lake Macquarie RFH.

- 6.37** Mr Stephen Dial, Moderator, *NewcastleFishing.com*, told the Committee that he believed the only species that had shown a marked increase in the Lake were flathead and bream.⁵³⁴ While Mr Leslie Cheers, commercial fisher, argued that a report⁵³⁵ showed that recreational fishers were extracting more fish than commercial fishers from Lake Macquarie prior to it being proclaimed a RFH. Mr Cheers believed the ensuing massive effort in recreational effort was affecting the availability of fish:

This report ... was done for Eddie Obeid but it was never produced until after Lake Macquarie was closed. If you read this you will find that the recreational fishermen were already taking more than the commercial fishermen before they threw the commercial industry out. That recreational fishing would have doubled and tripled by now. You see the recreational fishing now when you drive along Stockton Beach and there is standing room only with fishing rods. They say, "We can't catch a tailor." Do you wonder why? There are a thousand fishing rods sticking up there.⁵³⁶

- 6.38** The Committee heard evidence from Mr Bob Penfold who has fished for 63 years in the Central Coast to Forster area. Mr Penfold said that following the declaration of the RFH in Lake Macquarie, and the associated cessation of commercial fishing within it, it took about five years before any significant change in fish numbers were noted:

For five years after the buyout nothing seemed to change on the lake except that more flathead were being caught by fishermen. However, we did not realise that the main target species such as bream do not mature to legal harvest length until they are six years old. It takes six years for a baby bream to grow to 25 centimetres in length.

⁵³² Submission 891, Australian Fishing Trade Association & Boating Industry Association of NSW, pp 31-32; see also Submission 798, Grafton Anglers Club, p 2.

⁵³³ Submission 891, p 32.

⁵³⁴ Mr Stephen Dial, Moderator, *NewcastleFishing.com*, Evidence, 4 May 2010, p 22.

⁵³⁵ Tabled document, Mrs Kathleen Cheers, *NSW A survey of daytime recreational fishing during the annual period, March 1999 to February 2000, in Lake Macquarie, NSW*, August 2003.

⁵³⁶ Mr Leslie Cheers, commercial fisher, Evidence, 4 May 2010, p 48.

During the sixth and seventh summers fish numbers not only increased; their size also increased. For five years nothing seemed to change but we then started to see more big bream—bigger fish became available. Fish were now maturing in the lake in large numbers. Today there are sharks, dolphins, yellowtail kingfish, masses of jewfish, or mulloway, and tailor. We now have cobia that we never seen in the lake before today. The lake is thriving. An abundance of small fish supply the feed chain—an abundance that has never existed in living memory.⁵³⁷

- 6.39** Additionally, Mr Penfold noted that the abundance of marine life in Lake Macquarie persists notwithstanding the ten-fold increase in patronage by recreational fishers over the last ten years.⁵³⁸ While, Mr Kelvin Wynn, commercial fisher, said that he had noted a definite increase in the number of sharks within Lake Macquarie which he believes is due to increased fish stocks.⁵³⁹

Research on recreational fishing havens

- 6.40** To date the only RFHs to have had surveys conducted to assess their effectiveness are Tuross Lake and Lake Macquarie. Both of these had surveys conducted in 2003-2004. Most importantly, both areas also had surveys conducted in 1999-2000, prior to being proclaimed as RFHs, thus providing baseline comparative data.
- 6.41** Dr Aldo Steffi et al conducted the 2002-2004 study at Lake Macquarie. The report entitled *An assessment of changes in the daytime recreational fishery of Lake Macquarie following the establishment of a Recreational Fishing Haven* found that the fishery had improved in many ways after the instigation of the RFH, most notably the increase in the size of most species of fish being caught:

Overall, the indicators of recreational fishing quality that we examined indicated that the post-RFH fishery had improved in many ways since the pre-RFH survey period.

(a) the recreational harvest in both survey years was dominated by a relatively small number of taxa, however, the composition and relative contribution of these dominant taxa changed markedly between survey years. These changes occurred even though there was no significant difference between survey years in the total annual harvest, by number or weight, for the whole fishery;

(b) the recreational harvest of dusky flathead, tailor, sand whiting and trumpeter whiting (number and weight) and large-toothed flounder (weight only) had increased significantly during the post-RFH survey year;

(c) the recreational harvest of common squid, yellow-finned leatherjacket and sand mullet, by number and weight, had decreased significantly during the post-RFH survey year;

(d) total fishing effort (boat and shore combined) showed little change (about 2.3%), however, different trends were evident in the boat-based and shore-based fisheries.

⁵³⁷ Mr Bob Penfold, recreational fisher, Evidence, 4 May 2010, p 3.

⁵³⁸ Mr Penfold, Evidence, 4 May 2010, p 3.

⁵³⁹ Mr Kelvin Wynn, commercial fisher, Evidence, 4 May 2010, p 58.

Fishing effort in the larger boat-based fishery increased by about 12.8% but this change was not statistically significant. In contrast, there was a statistically significant reduction of about 22.4% in the level of shore-based fishing.

(e) seasonal harvest rate comparisons between survey years tended to confirm the increasing or decreasing trends found in the annual recreational harvest estimates for the main species;

(f) comparisons of length frequency information, mean and median lengths between survey years indicated that most species were harvested at larger sizes during the post-RFH survey year. The mean and median sizes of dusky flathead, sand whiting, tailor, common squid, yellowfin bream, blue swimmer crab, large-toothed flounder and sand mullet were all larger during the second survey year.⁵⁴⁰

6.42 Dr Steffi et al also undertook the research at Tuross Lake. The report entitled *An assessment of changes in the daytime, boat-based, recreational fishery of the Tuross Lake estuary following the establishment of a Recreational Fishing Haven*, also concluded the RHF had a positive results for recreational fishers:

1. the recreational harvest (number and weight) in both survey years was dominated by a relatively small number of taxa, however, the relative contribution of these dominant taxa changed markedly between survey years. These changes occurred even though there was no significant difference, by number, between survey years in the total annual harvest. A significant increase, by weight (41.6%), in the annual harvest of fish, crabs and cephalopods was recorded during the post-RFH survey year;
2. the recreational harvest of dusky flathead and sand whiting (number and weight), yellowfin bream (number only) and sand mullet (weight only) had increased significantly during the post-RFH survey year;
3. the recreational harvest of luderick, yellow eye mullet, large-toothed flounder and small-toothed flounder, by number and weight, had decreased significantly during the post-RFH survey year;
4. fishing effort (number of boat trips) increased significantly by about 25.2% during the post-RFH survey year;
5. significant harvest rate differences between corresponding seasons in the two survey years were detected. These significant differences in seasonal harvest rates between survey years indicate that major changes have occurred in the fishery since the pre-RFH survey period;
6. comparisons of length frequency information, mean and median lengths between survey years indicated that most species were harvested at larger sizes during the post-RFH survey year. The mean and median sizes of dusky flathead, sand whiting, river garfish and large-toothed flounder were all larger during the second survey year. Similarly, the mean and median sizes of sand mullet, tailor, yelloweye mullet and small-toothed flounder were larger during the post-RFH survey year but these comparisons should be treated with caution because of the small sample sizes (<50 fish per species) in one of the survey years;

⁵⁴⁰ Steffi AS, Murphy JJ, Chapman DJ, Gray CC, *An assessment of changes in the daytime recreational fishery of Lake Macquarie following the establishment of a Recreational Fishing Haven*, NSW Department of Primary Industries, Fisheries Final Report Series No 79, 2005, p 77.

7. the dusky flathead population within the Tuross Lake estuary was fished heavily prior to the implementation of the RFH when commercial fishing was still allowed. The length frequency data indicate that dusky flathead were growth overfished at the time of the pre-RFH survey. The relatively small improvement measured during the post-RFH survey indicates that the increase in recreational fishing effort of about 25% has been sufficiently large to offset most of the potential gain made by removing commercial effort.⁵⁴¹

6.43 Mr Doug Joyner, Executive Officer, Australian Fishing Tackle Association, praised Dr Steffi's work saying it demonstrates that the establishment of RFHs can lead to clear improvements in recreational catches of a number of species.⁵⁴²

6.44 In evidence Professor Booth noted that fish catches can vary from one year to the next. He argued that research studies need to be conducted over a longer period of time in order to account for these variances:

There was the start of what could have been a quite good study done through Fisheries which looked at Lake Macquarie and changes in fish catch after the establishment [of the RFH] but I do not know if it was stopped or if it ceased of its own accord before it became good science and that is it had a year before and a year after.

I happened to work on Lake Macquarie in the early 80s and spent two years talking to fishermen doing creel surveys and working with recreational and commercial catches. Those catch rates jumped up and down between the years alarmingly, so to just have it one year before and one year after is not scientifically valid. However, the results suggest some increase in the number of fish caught, but again two years means nothing.⁵⁴³

6.45 When questioned about the dearth of research on recreational fishing havens, Mr Bryan van der Walt, Acting Manager, Recreational Fisheries Programs advised I & I planned to conduct new surveys of RFHs starting in late 2010:

A new survey is proposed to commence in recreational fishing havens which will involve a combination of fisher catch surveys—things like creel surveys—but also involve Fisheries independent methods as well, which is a good thing to do because information is collected on the broader ecosystem and biodiversity, not just the angler catch which is collected during the research survey. So, a new survey which is being partly funded by the Recreational Fishing Trust is due to commence soon.⁵⁴⁴

⁵⁴¹ Steffi A, Murphy JJ, Chapman DJ, Barrett GP, Gray CA, *An assessment of changes in the daytime, boat-based, recreational fishery of the Tuross Lake estuary following the establishment of a 'Recreational Fishing Haven'*, NSW Department of Primary Industries, Fisheries Final Report Series No 81, 2005, p 54.

⁵⁴² Mr Doug Joyner, Executive Officer, Australian Fishing Tackle Association, Evidence, 30 August 2010, p 22.

⁵⁴³ Professor Booth, Evidence, 27 April 2010, p 10.

⁵⁴⁴ Mr Bryan van der Walt, Acting Manager, Recreational Fisheries Programs, Industry & Investment NSW, Evidence, 3 September 2010, p 3.

Committee comment

- 6.46** Recreational fishing havens provide recreational fishers with the opportunity to partake in their pastime free from the conflict often experienced when they share access with commercial fishers. RFHs are overwhelmingly supported by the recreational fishing sector.
- 6.47** It is important that the strength of the fishery within each RFH is monitored on a regular basis. It is important to monitor any changes within a specific RFH over time, and it is equally worthwhile to compare, as best one can, the relative level of improvement between different RFHs.
- 6.48** The Committee understands that while the prospect of further RFHs is the cause of enthusiasm among the recreational fishing sector it is the cause of equal if not greater concern among the commercial fishing sector.
- 6.49** The Committee believes it would be prudent to delay consideration of establishing any further recreational fishing havens until the planned research on current RFHs is completed and the results assessed.

Recommendation 19

That Industry & Investment NSW immediately commence on-going research on the broader ecosystem and recreational fish stocks within each recreational fishing haven, with information updated at least every five years.

Proposal for limited commercial access

- 6.50** A number of inquiry participants from the commercial fishing sector put forward a proposal for limited commercial access to RFHs, whereby only species not targeted by the recreational sector would be harvested under tight management.⁵⁴⁵
- 6.51** Mr Wynn, who had worked within Lake Macquarie prior to it being declared a RFH, described his proposal for the purchase of the right to days or nights of work to target non-recreational species, mainly mullet:

I would ask for a change in RFH's legislation to allow commercial fishermen to 'buy', for the want of a better term, nights in RFH to target non recreational species in very specific areas under strict controls. I am mainly talking about the targeting of sea [bully] mullet.

In this submission consideration could also be given to:-

- a) the a number of nights to be allocated per year, and at what price a night would cost the fisher.!
- b) the time of year/season the nights would be available

⁵⁴⁵ For example: Submission 11, Mr Kelvin Wynn, p 1; Mr John Harrison, Executive Officer, Professional Fishermen's Association, Evidence, 15 June 2010, p 10.

c) the money contributed by the commercial fishermen buying this right to access the RFH go directly to local recreational fishing bodies to enhance their ongoing programmes.

d) non recreational fish targeted with limits on 'gill' net size mesh. The method being gill netting splash and retrieve. This would eliminate by catch.

e) restricted areas of operation after consultation with the NSW local compliance officers and recreational bodies.

f) if, "activating a night", local compliance officers are informed when fisher is entering and leaving RFH, and, if need be an "observer" nominated by the recreational body could accompany the fisher.⁵⁴⁶

6.52 In evidence, Mr Wynn explained that this would provide a greater return on the fish he caught throughout the year due to supply and demand:

At this time of the year I am sitting out on Blacksmiths Beach catching travelling mullet that are leaving that lake. I have not yet had a pay check, but I will probably receive something in the vicinity of 50¢ to \$1.20 or \$1.30 a kilo for those mullet. If those same fish were targeted at other times of the year within the lake the return would be much greater—\$3, \$4, or \$5. You would go to work on nights when you thought that the return would be worthwhile.

...Because most of the fish that are caught on the beaches at this time of the year go to the processors, whereas at other times of the year I would be working to supply the Sydney Fish Market. It is simply a question of supply and demand.

...These days the whole fish is used; the roe is not just cut out as has occurred in the past. When fish are now targeted on the beach the whole fish is used. I think that is pretty straightforward. If we go back to targeting those fish at other times of the year it would be for the whole fish. There is no roe at that stage; they are just normal bully mullet and not travelling mullet. It is their habit to come into the estuaries and to go into the bays. Basically, that is what we used to do before it was made into a fishing haven. Mullet is not a targeted species by the recreational fishers movement.⁵⁴⁷

6.53 Mr Wynn acknowledged that there would be some by-catch involved in the targeting of mullet within the Lake, but that this could be managed so as to be insignificant. Mr Wynn also argued that allowing this access would alleviate some of the commercial over-fishing in the remaining available areas that has occurred due to what he considers as the insufficient buy-out of commercial effort within the region.

6.54 Mr Wynn suggested that if commercial fishers were allowed to purchase these access rights, the funds should be returned directly to the recreational fishing sector:

... I think I said it [money for the right to fish in RFHs] should go to the local recreational fishing committees ... I know down our way they have put some reefs in

⁵⁴⁶ Submission 11, p 1.

⁵⁴⁷ Mr Wynn, Evidence, 4 May 2010, p 54.

and they have done some work around the boat ramps and stuff like that. It is up to them as to how they spend the money because we are actually asking them to take some of that resource in terms of non-recreational fish.⁵⁴⁸

6.55 The Committee notes that while mullet may not be targeted by recreational anglers, that they may be a food source for other fish that are targeted by the recreational sector. If Mr Wynn's proposal was to be examined it would need to include an assessment of the role of mullet within the overall ecosystem of the Lake.

6.56 I & I advised that there was some scope for it to consider a scheme whereby commercial fishers have the ability to buy the right to fish with in RFHs for non-recreational species in very specific area under strict controls:

There is scope to make changes to existing recreational fishing havens where there is strong community consensus involving all sectors. A previous example included the Richmond River haven where local commercial fishers initially developed a proposal to re-open a small area in Shaws Bay to allow mullet hauling to resume, noting that sea mullet are not targeted in large numbers by recreational fishers. In consultation with local commercial and recreational fishers, the Government re-opened the area to sea mullet hauling and in exchange, 27 km of the Richmond River upstream from Tatham Bridge was closed year round to commercial netting.⁵⁴⁹

6.57 The Professional Fishermen's Association was also keen to highlight that there were precedents for allowing commercial fishing within RFHs.

Precedents have been set for allowing commercial fishing within RFHs showing that the two sectors can co-exist without any detriment to the other sector. Two examples of these are the Richmond River and "Wave Beach" at the mouth of the Clarence River where mullet hauling is permitted during the annual mullet season.⁵⁵⁰

6.58 In its submission, ECOfishers told the Committee that it was instrumental in allowing commercial fishing for mullet in the Richmond River. ECOfishers recognised that not allowing commercial fishing for mullet would deprive the local community of fresh, cheap local seafood.⁵⁵¹

Committee comment

6.59 The Committee recognises the desire of the commercial fishing industry to increase its access to NSW waters. On face value, Mr Wynn's proposal that commercial fishers be able to 'buy' time in RFHs to target non-recreational species has merit. Obviously, as had occurred in the past, any such arrangements will require consent from the local recreational fishing community.

⁵⁴⁸ Mr Wynn, Evidence, 4 May 2010, p 56.

⁵⁴⁹ Answers to written questions on notice, 19 April, 2010, Mr van der Walt, Question 10, pp 17.

⁵⁵⁰ Submission 803, p 12.

⁵⁵¹ Submission 986, ECOfishers, p 3

Recommendation 20

That Industry & Investment NSW, in consultation with recreational and professional fishers, investigate and identify the locations and circumstances in which limited commercial access to recreational fishing havens could be considered.

Ownership and management rights

6.60 Recreational fishers perceive a sense of ownership with respect to RFHs, primarily because it was approximately \$20 million from the recreational fishing trusts that funded the associated buy-out of commercial fishing interests. Some participants from the recreational sector argued that the sector should be compensated if the utility of an RFH is subsequently compromised, while others suggested that the sector should be vested with the management of RFH areas.

6.61 The submission from the Sea Bees Boating Club said that recreational fishers are concerned about the loss of access to certain RFHs as these provided identity and were unofficially owned by the group:

The potential loss of some RFHs through access restrictions is an issue now being confronted and is a concern to recreational fishers considering their financial investment. Recreational fishers have become very passionate about their RFHs because it has provided some form of identity and unofficial ownership. It has also created a totally different attitude within fishers who are now seeking consultation, supporting conservation to a greater level and are seeking more involvement and ownership of their investment.⁵⁵²

6.62 Mr Burgess put forward the argument that when fishing licences were created their main selling point was that the funds would be used to buy out commercial effort and create RFHs.⁵⁵³ Mr Burgess cited the case of Botany Bay where a number of construction projects have restricted the area available for fishing and suggested recreational fishers should receive compensation for this loss of access.⁵⁵⁴

6.63 The South Sydney Amateur Fishing Association was also disappointed with the current state of the Botany Bay RFH, estimating that its approximate cost to recreational fishers was almost \$5 million by 2009.⁵⁵⁵ The Association was concerned about the environmental impact of the Government's desalination plant, and recommended that the following actions be undertaken to rectify the situation:

- the Government fund Dr Ben Diggles to conduct a literature review of the desalination plant to determine its environmental impact;
- \$25,000 be allocated to Dr Diggles' project;

⁵⁵² Submission 863, Sea Bees Boating Club, p 10.

⁵⁵³ Mr Burgess, Evidence, 19 April 2010, p 64.

⁵⁵⁴ Mr Burgess, Evidence, 19 April 2010, p 63; see also Submission 863, p 11.

⁵⁵⁵ Submission 1010, South Sydney Amateur Fishing Association, p 3.

- Sydney Water fund three new offshore artificial reefs off Botany Bay to compensate recreational fishers for the loss of habitat caused by the desalination plant; and,
- \$750,000 be allocated to funding the 3 offshore reefs.⁵⁵⁶

6.64 A number of inquiry stakeholders suggested that recreational fishers and/or their representatives should manage RFHs.⁵⁵⁷ The Sea Bees Boating Club said that this concept had been mooted on the south coast:

[t]he creation of "recreational guardians" for RFHs has been mooted on the NSW south coast with plans to expand this concept to all existing RFHs. The Sea Bees Club requests the Inquiry formalise these positions and supports the formation of a "Trust" over such waters.⁵⁵⁸

6.65 I & I advised that the establishment of RFHs did not convey any jurisdiction, ownership or rights to the recreational fishing sector:

The recreational fishing havens are defined in the Fisheries Management (General) Regulation 2002 as areas protected from commercial fishing. Commercial fishers that were bought out during the implementation of the havens surrendered their commercial fishing entitlements, which were permanently removed from the commercial fishery. Therefore, the removal of these commercial fishing entitlements has provided for exclusive use of these areas for fishing by recreational fishers. However, this jurisdiction only applies to fishing and does not extend to the bed of the havens or other water users (except commercial fishers).⁵⁵⁹

Committee comment

6.66 The Committee notes the desire of the recreational fishing sector to preserve and protect the amenity of RFHs. In the future it may be appropriate for the sector to assume some form of a management or stewardship role over RFHs. However, other water users have equal rights to access to RFHs and these would need to be taken into account.

6.67 The Committee can understand the recreational sector's calls for some form of compensation when decisions or actions by the Government result in decreased access or a degradation of the fishery. It would appear there is some justification in the belief that the enhanced recreational fishing opportunities provided by the Botany Bay RFH have been severely diminished by recent government infrastructure developments.

6.68 The Committee believes that research should be undertaken to determine the impact of these developments with a view to determining what action should be taken to offset any loss of recreational fishing access or amenity to its users.

⁵⁵⁶ Submission 1010, p 7.

⁵⁵⁷ For example: Submission 943, Recreational Fishing Alliance of NSW, p 18.

⁵⁵⁸ Submission 863, p 11.

⁵⁵⁹ Answers to written questions on notice, 19 April 2010, Mr van der Walt, Question 8, p 15.

Recommendation 21

That the NSW Government commission research to determine the impact of recent government developments on the Botany Bay recreational fishing haven with a view to determining what mitigating actions and remediation programs can be established in proximity to the Botany Bay RFH to maintain or improve recreational fishing opportunities.

Fish stocking

6.69 Fish stocking involves producing fish fry or fingerlings and releasing them into NSW waters. The NSW Government advised in their submission that freshwater fish stocking has been carried out for over 100 years in New South Wales.⁵⁶⁰ The NSW Government undertakes three freshwater fish stocking programs:

- stocking of native fish impoundments
- trout and salmon stocking
- dollar-for-dollar fish native stocking.

6.70 Figures on the I & I website indicate that, in total, 5,801,060 fish were stocked in 2009-10 under these programs.⁵⁶¹

6.71 A large number of inquiry stakeholders supported fish stocking programs. For example, Dr Christopher Wright called for licence fees to be used to invest in fish stocking, particularly for snapper, mullet, bream, whiting and flathead.⁵⁶²

6.72 The submissions from both the National Parks Association and the Nature Conservation Council were critical of the practice of stocking of non-native species because, they asserted, it damaged the natural environment and was harmful to native species.⁵⁶³ Both organisations were also critical of the practice of native fish stocking as they argue it serves to mask the real causes of native fish decline and can hamper stock and ecosystem recovery efforts.

6.73 There was some concern about the possibility of ‘overstocking’ and demands for further research into the practice.⁵⁶⁴ Mr Karl Scharf, Honorary Secretary, Central Acclimatisation Society, said that when determining the number and volume of fish to restock it is necessary to assess the carrying capacity of the receiving environment:

I have a cautionary point to make that it concerns me as an individual, and certainly some of the members of the society I represent, that there may in fact be some

⁵⁶⁰ Submission 1007, p 17.

⁵⁶¹ I & I, <www.dpi.nsw.gov.au/fisheries/recreational/info/fish-stocking>, accessed 1 October 2010.

⁵⁶² Submission 528, Dr Christopher Wright, p 3.

⁵⁶³ Submission 860, National Parks Association, p 7; Submission 784, Nature Conservation Council of NSW, p 9.

⁵⁶⁴ Submission 960, p 6.

overstocking of, particularly, trout, and in some instances when stockings of streams are undertaken there is a potential for overstocking of native fishes. The general perception is that stocking is the answer to everything.

...The problem is that if we look at our streams as being able to carry fish, we should look at them as much as a farmer would a paddock. Those streams only have a certain carrying capacity and given that some of the streams have been badly affected by man's activities, particularly in the tablelands areas, through overgrazing, siltation from overclearing of steep, fragile lands, and, of course, increased abstraction, these streams have a limited carrying capacity.⁵⁶⁵

- 6.74** Mr Tilzey argued there was a need for increased scientific information of stocking and called for a review of current stocking practices:

Nevertheless, too much stocking is being carried out without any back-up monitoring. The basic question of "how many stocked fish are reaching the angler?" remains largely unanswered. Stocking is an expensive procedure and an ongoing expense. A cost-benefit analysis of most stocking practices should be undertaken. It is simply not good enough to annually release large numbers of fish without estimating their survival rates in the wild and the percentage caught by anglers.⁵⁶⁶

- 6.75** Other inquiry stakeholders said there needed to be better coordination of stocking programs. In its submission, the Southern Rivers Catchment Management Authority explained how more thorough communication and understanding between stakeholders improves stocking programs:

A current gap in recreational fishing programs is the absence of agreed priorities and approaches for undertaking stocking to sustain recreational fishing areas where natural population replenishment has been impaired. Southern Rivers CMA suggests that the ... Native Fish Recovery Strategy for the Snowy River represents a good example of a cooperative approach which has enabled the recovery of an economically important native fishery. Southern Rivers CMA has prioritised all rivers and estuaries in its region, with social and economic considerations (such as recreational and commercial fishing) being an important part of the assessment criteria. It is recognised that the significant environmental pressures on recreational fisheries are most effectively treated in a strategic and coordinated manner, with all players making a contribution. Southern Rivers CMA have also attempted, with varying levels of success, to engage recreational angling groups with broader catchment management issues and programs.⁵⁶⁷

Native fish stocking

- 6.76** The NSW Government informed the Committee that it produces approximately 2 million native fish, including Murray cod, golden perch and bass from hatcheries each year for stocking into a large number of impoundments.⁵⁶⁸ Mr O'Connor advised that native fish are

⁵⁶⁵ Mr Karl Schaerf, Honorary Secretary, Central Acclimatisation Society, Evidence, 27 April 2010, pp 22-23.

⁵⁶⁶ Submission 960, p 6

⁵⁶⁷ Submission 973, Southern Rivers Catchment Management Authority, p 4.

⁵⁶⁸ Submission 1007, p 17.

stocked into inland impoundments because these are areas where native fish would not breed naturally.⁵⁶⁹ This stocking is undertaken for recreational fishing purposes.⁵⁷⁰

6.77 Over the past three years, the total number of native fish stocked from NSW government hatcheries in impoundments has been:

- 2006/2007 1,418,961
- 2007/2008 2,460,698
- 2008/2008 832,280⁵⁷¹

6.78 Over a similar period, the total of native fish stockings under the community dollar for dollar native fish stocking program has been:

- 2006/2007 907,515
- 2008/2008 826,082
- 2008/2009 1,154,878.⁵⁷²

6.79 Under the dollar-for-dollar program, community groups apply to the NSW Recreational Fishing Trust for matching funds to purchase native fish from licensed commercial hatcheries for stocking rivers and dams in the Murray Darling system and east of the great divide.⁵⁷³ The Tocumwal Angling Club participated in the stocking program over the past eleven years. Mr Timothy Becroft, President, Tocumwal Angling Club, said that over that time the club had put \$100,000 worth of yellowbelly and cod fingerlings into the Murray River.⁵⁷⁴

6.80 The Department also undertakes specific stocking programs in order to support threatened native species. Mr O'Connor told the Committee about the NSW Government's effort to restock trout cod:

There are specific examples and I guess the classic case is trout cod, which is a threatened species, as I think you are all aware. We have tried to reintroduce it into those areas where it formerly existed, and indeed it has been a very successful program.⁵⁷⁵

6.81 In the case of trout cod stocking in the Mulwala to Tocumwal area the Committee was advised that the stocked population was breeding. However, it was not possible to determine at this stage whether the population could become sustainable solely on the basis of this self-breeding.⁵⁷⁶

⁵⁶⁹ Mr O'Connor, Evidence, 19 April 2010, p 22.

⁵⁷⁰ Mr O'Connor, Evidence, 19 April 2010, p 22.

⁵⁷¹ Submission 1007, Appendix 6, p 23.

⁵⁷² Submission 1007, Appendix 6, p 23.

⁵⁷³ I & I <www.dpi.nsw.gov.au/fisheries/recreational/info/fish-stocking/dollar>, accessed 1 October 2010.

⁵⁷⁴ Mr Timothy Becroft, President, Tocumwal Angling Club, Evidence, 27 May 2010, p 38

⁵⁷⁵ Mr O'Connor, Evidence, 19 April 2010, p 22.

⁵⁷⁶ Mr Becroft, Evidence, 27 May 2010, p 50.

6.82 Mr Becroft said that fish stocks of Murray cod were ample in the Tocumwal area but that the majority of the fish are under the legal size limit of 60 centimetres. He ventured that in ten or fifteen years time his sons will think a wonderful job was done fifteen years ago in restocking the river.⁵⁷⁷ However, Mr Becroft said that his club had decided to now defer future involvement in the re-stocking program until such time that it was able to ascertain what return it was getting on its investment:

Our club has decided this year not to restock because we just feel that maybe it has got to the point now where we need to give it a bit of a rest for a while, because we have been putting a lot of fish in. We do not know what the survival rate is, of course; we have no idea.

...We have asked that question and we really have not got a satisfactory answer to that, so we are in the dark, and we want to know where our money went to as well. If we go and spend \$10,000 a year, do we only get \$2,000 worth of fish? We do not know, but we certainly would like to know that. I know that the Fisheries were in our area just recently doing electro-fishing and counting numbers, but we do not know the result of that, we do not know what they found. We do know that they did catch some fish over a metre, but how many they got we have no idea. We have only just heard that locally. We would like to see that information, but we have never seen it.⁵⁷⁸

6.83 Similarly the South West Anglers Association said that 'more attention must be given to angler catch data as Departmental surveys from many years back do not reflect the numbers of fish now in certain waters due to stock enhancement and habitat improvement.'⁵⁷⁹ The Association had a number of suggestions to improve fish stocking programs:

- Review the Department policy of only stocking impoundments and research and identify areas that have depleted stocks due to drought or other reasons, or in need of an increase of a specific species to balance populations and then enhance those areas with public stockings.
- Increase the allocation from the Trust for the "dollar for dollar" program but with greater emphasis on creating a balanced native fish population rather than the want of the local club. Native fish populations have clearly increased in areas that have benefited from this stocking activity.⁵⁸⁰

6.84 Mr Cameron Westaway, Senior Fisheries Manager, Inland, Industry & Investment NSW, advised that recent research indicated an improvement in Murray cod numbers since 1994. He suggested there were probably a number of reasons for this improvement, including the stocking program, although he noted that improvements had also been indicated in unstocked areas.⁵⁸¹ Mr Westaway further noted that recent developments would soon allow research monitoring of the survival rate of stocked fish, with useful results expected within three to four years:

⁵⁷⁷ Mr Becroft, Evidence, 27 May 2010, p 48.

⁵⁷⁸ Mr Becroft, Evidence, 27 May 2010, p 50.

⁵⁷⁹ Submission 815, South West Anglers Association, p 2.

⁵⁸⁰ Submission 815, p 2

⁵⁸¹ Mr Cameron Westaway, Senior Fisheries Manager, Inland, Industry & Investment NSW, Evidence, 27 May 2010, p 67.

Recently the Arthur Rylah Institute in Victoria developed some chemical marketing techniques. We have those approved now for use in fish, from a food-safe perspective. There is no residue, and we can now non-fatally test stocked fish. In other words, we can wave a magic light over them and they will respond, if they are stocked or not. That will teach us a tremendous amount, not just about stocking but about the health and carrying capacity of the rivers et cetera. We are hoping to roll those projects starting now; we have specific marked fish in place.⁵⁸²

Committee comment

- 6.85** The Committee recognises the importance of the NSW Government's native fish stocking programs and commends the fishing clubs that have participated in the dollar-for-dollar programs. The Committee understands that these programs play a significant role in enhancing the experience of recreational fishers in NSW, and in ensuring the survival of native fish species.
- 6.86** The Committee notes that monitoring of the survival rate of stocking program is to commence soon and that useful results are anticipated to be available within three to four years. It will be important that once these results come to hand that they are provided to the recreational fishing organisations that have done so much to support these programs

Trout stocking

- 6.87** The NSW Government advised the Committee that freshwater fish stocking has been carried out for over a century in NSW.⁵⁸³ Additionally, approximately 3.5 million trout and salmon are produced each year for stocking in the Snowy Mountains, Southern Highlands and Orange regions and Central and New England tablelands.⁵⁸⁴ Despite these efforts, certain inquiry participants expressed frustration at the NSW Government's perceived unwillingness to support the trout industry. While other inquiry participants were opposed to the stocking of any non-native species.
- 6.88** The Barrington Club was alarmed at what it perceived to be the NSW Government's indifference to the trout industry.⁵⁸⁵ It could not understand this indifference given the contribution trout fishing activities make to local economies:

It seems that this group has some socio-economic value and their effect on the environment is minimal. I am not aware of any figures available on this area, but as a comparison, as quoted by Steve Dunn NSW Director Of Fisheries, trout fishing in the Monaro district contributes \$70 million annually to the economy. A very high percentage of recreational activity in the Barrington Tops area involves trout fishing.⁵⁸⁶

⁵⁸² Mr Westaway, Evidence, 27 May 2010, p 69.

⁵⁸³ Submission 1007, p 17.

⁵⁸⁴ Submission 1007, p 17.

⁵⁸⁵ Submission 778, Barrington Club, p 2.

⁵⁸⁶ Submission 778, p 2.

- 6.89** In evidence Mr David Screen, President, Lakeside Fly Fishing Club, drew the attention of the Committee to the efforts of the Victorian Government in supporting and promoting trout fishing in the Goulburn River:

Besides that, they have decided to start restocking rivers in that area with trout... They released about 4,000 fish last year and I think this year they will release about 20,000 fingerlings into the Goulburn River system. The water from Eildon pond, probably 20 or 30 river kilometres downstream, will be the beneficiaries of that stocking program and all the feeder streams and rivers that go into the Goulburn River.

From what we have seen, they have supported that with literature and educational programs ... This is an effort on the part of the Government to try to bring back into the area some economic activity and tourists to try to help stimulate the local economy. Either way it is going to benefit the angler and the communities that rely on the fishing dollar.⁵⁸⁷

- 6.90** With respect to the question of sustainability of trout stocking Mr Screen advised that for stocked trout populations to be self-sustaining they require colder water, while warmer waters require more consistent re-stocking:

Again, it depends on which rivers. Rivers in the Snowy Mountains are fine. They have cold, clear water. Populations there are mostly self-sustaining. Most of those rivers flow into the dams created by Snowy Hydro, so they store large stocks of fish. At breeding time the fish will move back up into the rivers and spawn. There are some resident fish as well. The fish populations that need stocking would be around the Lithgow, Wallerawang, Coxs River, the Duckmaloi, Fish River, and Cudgegong River areas because they are warmer.⁵⁸⁸

- 6.91** Certain inquiry participants disagreed with the Government's decision to continue to stock trout. The Hunter Native Fishing Club referred to trout as a pest and suggested that the Government give greater consideration to the protection of native, rather than introduced, species.⁵⁸⁹

- 6.92** Similarly Mr C.G. Blanchard said that he blamed trout for what he considered the alarming decline in native species that he had noticed over the 39 years he had been fishing:

This exotic species, has aggressively competed, with all natives ... To foster protection, for any and all trout and salmon species, is to condemn most of our native species, to extinction ... Remove the protection - bag and size limit - from rivers and estuaries and watch the natives flourish.⁵⁹⁰

- 6.93** Other inquiry stakeholders countered these objections, saying that trout and native stocks could effectively co-habitat. Mr Screen implied that there was not much conflict between trout and native species as the former are stocked and reside in colder waters whereas the latter predominately live outside of these areas.⁵⁹¹ Furthermore, Mr Screen argues that there appears

⁵⁸⁷ Mr David Screen, President, Lakeside Fly Fishing Club, Evidence, 19 April 2010, pp 69-70.

⁵⁸⁸ Mr Screen, Evidence, 19 April 2010, p 72.

⁵⁸⁹ Submission 824, Hunter Native Fishing Club, p 5.

⁵⁹⁰ Submission 876, Mr C.G. Blanchard, p 1.

⁵⁹¹ Mr Screen, Evidence, 19 April 2010, p 72.

to be no conflict between trout and native populations even though he concedes they will predate on native fish:

I think the trout will eat bugs and insects, particularly things like grasshoppers or moths or other flying or terrestrial borne life. They will eat little bugs and aquatic organisms in the water. They will eat their own kind; they will predate on themselves. Native fish as well, they will get them. But one of the points that I have made in my submission is that we have noted that where you find a healthy trout population you also find a very healthy population of the mountain galaxias—probably the native fish that we come across are from the mountains—frogs and other life forms like that, and where you do not find trout you do not find the other because the water is either silted up, or of a low quality or it is too warm.⁵⁹²

- 6.94** In evidence, Mr Schaerf highlighted that there are a number of successful ‘mixed’ fisheries, where trout and natives reside together. He said that while predation does occur, other environmental issues are the greater concern:

Yes, we do, but predation amongst the species is not necessarily as big an issue as are some of the issues to which I alluded a moment ago—the environmental conditions, particularly these past 10 years, this decade of drought we have just experienced. I believe that those events are probably of greater concern to us than predation. There are some very, very successful mixed fisheries in New South Wales, particularly in the impoundments. I can illustrate the success we have had with Wyangala Dam, which, when I was younger, principally was a trout fishery, and only upon the enlargement of the dam and then the final agreement by NSW Fisheries to carry out large-scale stockings with native fishes was the mixed fishery established there.

Burrundong Dam, because of its climatic region and the nature of the rivers which contribute to its storage, has been less successful as a mixed fishery. It certainly has a mixed population of native fishes. We have established a very good mixed fishery consisting of native fish and trout in Lake Lyell near Lithgow, and also, quite remarkably, in the much smaller dam, Lake Wallace, or Wallerawang Dam, near the Great Western Highway—a remarkably good fishery. It certainly has been proven in the case of Burrinjuck Dam in years past that the best fishery is a mixed fishery.⁵⁹³

Committee comment

- 6.95** The Committee notes that the Government has been engaged in trout stocking for over 100 years and has produced significant gains for local economies. Certain inquiry participants appeared frustrated with the NSW Government’s decision to maintain this practice, especially over fears that trout predate on and threaten native species.

Gaden Trout Hatchery

- 6.96** The Gaden Trout Hatchery is one of Australia’s main centres for breeding and rearing cold water non-native fish, including rainbow trout, brown trout, brook trout and Atlantic

⁵⁹² Mr Screen, Evidence, 19 April 2010, p 73.

⁵⁹³ Mr Schaerf, Evidence, 27 April 2010, p 23.

Salmon.⁵⁹⁴ The fish fry and fingerlings are produced I & I and are stocked into the dams and river systems of the snowy mountains, southern highlands, the central tablelands and New England areas.⁵⁹⁵

- 6.97** The NSW Government announced it would close the Gaden Trout Hatchery in its 2008 Mini-Budget, however the decision was quickly reversed and the facility is now funded by the Recreational Fishing Trusts.⁵⁹⁶ On its website, I & I stated that approximately \$240,000 of trust fund monies has been used to operate the facility.⁵⁹⁷ The department notes that the funds have allowed for important fish stocking programs to continue:

This [money] has enabled the department's fish stocking program to continue to provide many benefits and is recognised for its importance to the community in terms of quality recreational fishing, stock for the aquaculture industry, conservation activities, visitor education, employment opportunities and subsequent economic benefits in regional areas that have grown in response to the activity over many year.⁵⁹⁸

- 6.98** The Gaden Trout Hatchery plays a significant role in the recreational fishing industry of the Snowy Mountains. It has been estimated that the recreational fishing industry is a major part of many local economies and in the Snowy Mountains region alone, injects approximately \$70 million a year into the local economy and support 700 jobs.⁵⁹⁹

- 6.99** A number of inquiry participants expressed their anger that there was a threat to close down the facility. Mr Screen explained the importance of the hatchery to trout anglers:

Now this facility is extremely important for trout anglers. It is the premier breeding hatchery in the State. It also supplies the Dutton hatchery to the north of the State which cannot really exist without the Gaden hatchery and it has been called on to support the Tasmanian industry when it has had problems with its fisheries there through disease or high water temperatures and fish kill as a result. They have supplied ova and fingerlings to them which, as you know, is a fairly large commercial operation in Tasmania. The Gaden hatchery has also supplied fish stock to Victoria and South Australia, I believe, as well.⁶⁰⁰

⁵⁹⁴ I & I, <www.dpi.nsw.gov.au/fisheries/recreational/info/fish-stocking/gaden>, accessed 3 November 2010.

⁵⁹⁵ I & I, <www.dpi.nsw.gov.au/fisheries/recreational/info/fish-stocking/gaden>, accessed 3 November 2010.

⁵⁹⁶ Duffy M, 'Fishery political tale behind trout hatchery closure', *Sydney Morning Herald*, 6 December 2008.

⁵⁹⁷ I & I, <www.dpi.nsw.gov.au/fisheries/recreational/info/fish-stocking/gaden/history>, accessed 3 November 2010.

⁵⁹⁸ I & I, <www.dpi.nsw.gov.au/fisheries/recreational/info/fish-stocking/gaden>, accessed 3 November 2010

⁵⁹⁹ Hon I Macdonald MP, then Minister for Primary Industries, 'NSW trout fishing season opens this weekend', *Media Release*, 29 September 2008.

⁶⁰⁰ Mr Screen, Evidence, 19 April 2010, p 76.

- 6.100** Mr Screen emphasised the significance of the trout fishing industry, which relied on the operations of the hatchery, to the economy of the local area:

From what I understand, an economic evaluation was undertaken in around about 2000 or 2001 which suggested that the angling dollar in the Snowy Mountains area generated about \$70 million annually. Now that obviously is not all through fishing but you have got accommodation, petrol, stock and all those sorts of things you need to purchase to do that. I have heard stories or figures that the State trout dollar was worth about \$100 million a year to the State's economy. I know in New Zealand it is worth about \$NZ700 million to its industry every year, just fly fishing dollar. So it is a significant boost to your economy, particularly the smaller economies in the Snowy Mountains that rely heavily on that dollar. If the State Government at an investment of say, \$470,000 a year helped prop up a \$100 million a year industry, I would not mind buying shares in that business if I got that sort of return back on my investment.⁶⁰¹

- 6.101** Other inquiry stakeholders, including Mr Schaerf also stressed the Committee the importance of the Hatchery.⁶⁰² Similarly, the Queanbeyan Fishing Club was delighted with the NSW Government's decision to keep the hatchery open, noting that trout fishing plays a critical role in the local economy.⁶⁰³
- 6.102** Inquiry participants were critical of the NSW Government's decision to fund the Gaden Trout Hatchery through the Recreational Fishing Trust. For example, The South West Anglers Association argued that fishing trust money was not intended to be spent on infrastructure that was traditionally the domain of government monies.⁶⁰⁴ The submission from the Newcastle Sport Fishing Club argued that as recreational anglers are not the sole beneficiaries of the Gaden breeding programme, it was not appropriate to use fishing trust monies to support its operation.⁶⁰⁵

Committee comment

- 6.103** The Committee recognises the importance of the trout fishing industry and particularly the Gaden Trout Hatchery to the economy of the Snowy Mountains region. If the hatchery had ceased operations recreational fishers would not have been the only stakeholder group that would have suffered.
- 6.104** The Committee can understand the cynicism of those inquiry participants who believed the decision to close the hatchery was made in order to justify its continued funding through the Recreational Fishing Trusts.

⁶⁰¹ Mr Screen, Evidence, 19 April 2010, p 77.

⁶⁰² Mr Schaerf, Evidence, 27 April 2010, p 22.

⁶⁰³ Submission 862, Queanbeyan Fishing Club, p 3.

⁶⁰⁴ Submission 815, p 3.

⁶⁰⁵ Submission 77, Newcastle Sport Fishing Club, p 7.

Artificial reefs

- 6.105** The I & I Artificial Reefs project is a key component of the Recreational Fisheries Enhancement Program.⁶⁰⁶ The project consists of two parts, Estuarine Artificial Reefs (EARs) and Offshore Artificial Reefs (OARs). The reefs are constructed from 'reef balls', which are 'specially designed concrete modules that promote marine growth and provide fish with a complex habitat.'⁶⁰⁷ Since 2004, five artificial reefs have been located in Lake Conjola, Merimbula Lake, Lake Macquarie, Botany Bay and St Georges Basin, with more planned in other estuaries.
- 6.106** The artificial reefs within the recreational fishing program are purpose-built to create fish habitat and provide additional fishing locations for recreational fishers. The Committee was advised that the proposed sinking of HMAS Adelaide was the responsibility of the Department of Lands and will be primarily deployed as a diving reef.⁶⁰⁸
- 6.107** EARs have been deployed for a number of years, whereas the NSW Government is currently considering a proposal for three OARs off the coast of Sydney, Newcastle and Wollongong respectively.⁶⁰⁹ The NSW Government submission advised that it was investigating the feasibility of deploying artificial reefs in ocean waters:
- [t]he major challenge is designing and building an appropriate structure that can withstand the harsh NSW coastal conditions whilst minimising ecological impacts. An environmental assessment for deploying three artificial reefs off Newcastle, Sydney and Wollongong is currently being prepared. Each reef unit will weigh up to 35 tonnes and be up to 12 metres high to create high quality reefs for recreational fishing.⁶¹⁰
- 6.108** I & I acknowledged there are problems with the issue of access for spearfishers to artificial reefs and advised that any management plan for OARs would consider these risks.⁶¹¹ Spearfishers concerns regarding access are examined in Chapter 9.
- 6.109** Various inquiry participants offered their suggestions as to where artificial reefs should be located. The Fishing Party holds the view that artificial reefs should be deployed in less fish attractive marine environments.⁶¹²
- 6.110** Mr James Harnwell, Editor and Publisher, *Fishing World*, argued that artificial reefs should be considered as a means for compensating local fishers whose access to fishing spots within marine parks have been restricted and also to alleviate the increased fishing pressure on the remaining areas within marine parks open to fishing:

One of the points made in my submission and it is relevant to the points you raised then was that I think it is fair that maybe recreational fishermen would be

⁶⁰⁶ I & I, <www.dpi.nsw.gov.au/fisheries/recreational/saltwater/artificial-reefs>, accessed 3 November 2010.

⁶⁰⁷ Submission 1007, p 17.

⁶⁰⁸ Mr van der Walt, Evidence, 19 April 2010, p 30.

⁶⁰⁹ Mr van der Walt, Evidence, 19 April 2010, p 30.

⁶¹⁰ Submission 1007, p 17.

⁶¹¹ Mr van der Walt, Evidence, 19 April 2010, p 30.

⁶¹² Submission 927, The Fishing Party, p 5.

compensated somehow for the loss of these grounds because there are fewer areas to go, but also to try to reduce the pressure on the areas that are left open. I suggest in my submission that artificial reefs could be one way of looking at this. That is a subject I am quite interested in. Artificial reef programs are being instigated by the New South Wales Government off the coast and I think they should be looked at in regard to marine parks to ease the problems of displaced effort and also cater to our growing population.⁶¹³

- 6.111** During the first public hearing it became apparent there was some confusion as to whether artificial reefs could be located within marine parks. Initially, the Committee was advised that they could only be considered for location within a general use zone:

The policy of the Marine Parks Authority is, in the first instance, to look to locations outside of the marine park for sighting artificial reefs. But the authority accepts the validity of artificial reefs in some circumstances and has a policy of allowing that to happen, subject to appropriate environmental assessment, in the general use zone parts of a marine park—not within a sanctuary zone or habitat protection zone.⁶¹⁴

...The purpose of habitat protection zones, as the term suggests, is to protect the habitat and the view of the authority is that placing an artificial reef in a habitat protection zone is not protecting the habitat. I take your point about fishing effort and moving fishing effort elsewhere, which is why the authority has a policy of permitting artificial reefs, in general use zones, within marine parks.⁶¹⁵

- 6.112** However, later during the hearing, in response to a question from the Chair, Mr Michael Wright, Director, Protected Areas Policy and Programs clarified the matter and advised that artificial reefs could be considered for location within habitat protection zones subject to them not having a significant impact on adjoining sanctuary zones:

A point of clarification around the Marine Parks Authority policy on artificial reefs: I have just been advised that the policy does allow for the location of artificial reefs within habitat protection zones, subject to it not having a significant impact on adjoining sanctuary zones.⁶¹⁶

- 6.113** Recreational fishers were pleased when informed of the substance of the policy regarding the potential for locating artificial reefs within marine parks, Government would consider placing artificial reefs in marine parks. Mr Burgess said that it had been his understanding that there was no potential for the placement of artificial reefs:

I am pleased to hear what you are saying because the information that we were given, including information from my colleagues from fisheries, has been that that is not an option—putting artificial reefs into these zones or into marine parks generally.⁶¹⁷

⁶¹³ Mr James Harnwell, Editor and Publisher, *Fishing Monthly*, Evidence, 29 April 2010, p 16.

⁶¹⁴ Mr Michael Wright, Director, Protected Areas Policy and Programs, Department of Environment, Climate Change and Water, Evidence, 19 April 2010, p 30.

⁶¹⁵ Mr Wright, Evidence, 19 April 2010, p 35.

⁶¹⁶ Mr Wright, Evidence, 19 April 2010, p 36.

⁶¹⁷ Mr Burgess, Evidence, 19 April 2010, p 66.

Committee comment

- 6.114** Artificial reefs offer recreational line fishers additional incentives to access NSW waterways. The Committee looks forward to the environmental assessments of the OARs and their expected deployment in three locations off the NSW coast.
- 6.115** The Committee acknowledges that spearfishers feel that they are not equitably accommodated within the current artificial reef program.
- 6.116** The Committee is interested in the potential of deploying artificial reefs within appropriate areas of marine parks as a means of easing the current discontent of many recreational fishers. The Committee believes the Marine Parks Authority should explore this potential further, and seek to identify at least one location within each marine park where an artificial reef could be deployed without negatively affecting nearby sanctuary zones.
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Recommendation 22

That the Marine Parks Authority identify at least one location within each marine park where an artificial reef could be deployed without negatively affecting nearby sanctuary zones.

Fish aggregating devices

- 6.117** The purpose of fish aggregating devices (FADs) is to provide structure in offshore oceans which attract pelagic fish such as mahi-mahi, tuna and marlin.⁶¹⁸ FADs were initially trialled in NSW in the 1980s but the high cost of deploying and maintaining them meant the program was discontinued.⁶¹⁹ However, since 2001 FADs have been part of the recreational fisheries enhancement project. Twenty-five FADs are now deployed along the coast between Tweed Heads and Eden before each summer fishing season.⁶²⁰
- 6.118** During the Inquiry there was discussion about the desirability and efficacy of FADs. Recreational line fishers generally considered them a successful initiative. Spearfishers argued that FADs offered their sector little practical amenity – and these concerns are examined in Chapter 9. Other stakeholders questioned whether the deployment of FADs was an environmentally sound practice.
- 6.119** Mr John Curtis was concerned that the impact of FADs in terms of sustainability and exploitation of the targeted fish species may not have been assessed:

There doesn't appear to be an overall strategy in place to ensure the sustainability of the recreational fishery. The only strategy appears to only look at ways to "improve fishing opportunities" by way of exploiting existing marine fish stocks.

As an example, the over use of FADS along the entire NSW coast - there has been no environment assessment, or one that has been publicly scrutinised. The reason for

⁶¹⁸ Submission 1007, p 17.

⁶¹⁹ I & I, <www.dpi.nsw.gov.au/fisheries/recreational/saltwater/fads>, accessed 3 November 2010.

⁶²⁰ Submission 1007, p 17.

their deployment is that the main fish species that are attracted to the devices and are considered to be highly fecund. However, there has been no detailed assessment of the affect of this exploitation.⁶²¹

- 6.120** Mr John O'Rafferty, recreational fisher, believed that the benefit of FADs was that it directed fishing effort away from more sensitive sites:

We have what we call the fish attraction device [FAD], which is located at couple of kilometres offshore. That is exactly what it is supposed to be—a fish attraction device, and it works. I certainly get catches there on a regular basis. I suppose if you can attract fish from their breeding ground so that you still have the catch but you are not interfering with their breeding ground, then everyone is happy, I suppose.⁶²²

- 6.121** Mr Maxwell Frost, recreational fisher, noted that FADs certainly achieve their purpose and provide an improved fishing experience for those who can travel out to where they are located. Mr Frost believed that the FAD program should be increased:

FADs work only in the seasons when the fish are travelling through. There are positives and negatives there, but marine parks do not help FADs. There should be a lot more of those FADs. They are used in Sydney Harbour where the fishing has increased. Statements from Fisheries reveal that there has been an improvement.⁶²³

Committee comment

- 6.122** FADs have been a highly successful fishing enhancement program and have come to play an important part in the recreational fishing experience for many boat-based anglers. The Committee notes there are some concerns about their potential for over-exploitation of targeted species. The Committee encourages I & I to provide ongoing, appropriate information on the FADs website about the sustainability of fish species in relation to these devices.

⁶²¹ Submission 414, Mr John Curtis, p 1.

⁶²² Mr John O'Rafferty, recreational fisher, Evidence, 5 May 2010, p 60.

⁶²³ Mr Maxwell Frost, recreational fisher, Evidence, 5 May 2010, p 65.

Chapter 7 Regulation and management of recreational fishing

The requirement for an all waters fishing licence was introduced in 2001.⁶²⁴ What historically used to be an unregulated pastime has, particularly over the last ten years, become more regulated. Recreational fishers have to be aware of the regulations and requirements that now manage their pastime.⁶²⁵

This chapter examines a number of issues with respect to the regulation and management of recreational fishing including the process by which the regulations that govern recreational fishing are developed; the means by which recreational fishers are able to keep abreast of the current regulations; the effectiveness of compliance activities; and how land management decisions by various government agencies can affect environmental sustainability and the ability of recreational fishers to pursue their pastime.

Review of regulations

- 7.1** Annual scientific fisheries resource assessments are used to determine the population status of fish species harvested by commercial and recreational fishers, and to identify the need for management intervention. This information is also used during periodic reviews of NSW fishing rules such as bag and size limit reviews, to help conserve fish stocks and mitigate the impacts of increasing pressure on fisheries resources. Increasing efficiencies in fishing methods also need to be monitored and controlled in terms of their impact on target and by-catch species. The most recent reviews were completed in 2000 and 2007. The next review of fishing rules will commence in 2011. These processes involve consultation and input from the Advisory Council on Recreational Fishing (ACoRF) and the broader community.⁶²⁶
- 7.2** The Committee notes that the Fisheries Management (General) Regulation 2010 and associated Regulatory Impact Statement were placed on public exhibition from 2 June to 2 July 2010. The objective of the 2010 regulation review was to consider whether the existing regulation should be remade with some amendments.
- 7.3** While there is scope within the regulation review process to make some changes to fishing rules, Industry & Investment NSW advised that major reviews of fishing rules (such as that which will commence in 2011) are generally undertaken separately because of the comprehensive nature of that review process:

This process has a number of sequential stages including resource assessments, development of alternative management options, industry consultation, widespread exhibition of a discussion paper, implementation of fisheries legislation amendments and associated advisory campaigns.⁶²⁷

⁶²⁴ The requirement for a freshwater fishing licence was introduced in 1998.

⁶²⁵ Mr James Harnwell, Editor and Publisher, *Fishing World*, Evidence, 29 April 2010, p 19.

⁶²⁶ Submission 1007, NSW Government, p 5.

⁶²⁷ Answers to written questions on notice, Mr Bryan van der Walt, Acting Manager, Recreational Fisheries Program, 5 October 2010, Industry & Investment NSW, Question 5, p 16.

- 7.4** Mr Bryan van der Walt, Acting Manager, Recreational Fishing Programs, Industry and Investment NSW (I & I) advised that it was I & I's intention to secure as broad as possible input from the community once the discussion paper is developed. Mr van der Walt said that copies of the discussion paper were distributed through a variety of means:

We develop a discussion paper with options, print large quantities of those discussion papers and then distribute them to the community. There is a submission period where people can then review the proposals and provide comments back to the department. The discussion paper is widely distributed. It is sent to fishing clubs. It is distributed by Fish Care volunteers. It is available on the Internet. It is sent to licence agents as well to distribute so I guess the intention there is to try to get it out as widely as possible.⁶²⁸

- 7.5** Mr van der Walt conceded that it was a challenge to alert average recreational fishers, that is those not affiliated with a club or organisation, to reviews and secure their input, and that this was particularly so with respect to inland recreational fishers.⁶²⁹

- 7.6** Quite a few submissions to the Inquiry from recreational fishers included information on their observed status of fish stocks in their local area and made suggestions or recommendations for changes to fishing regulations accordingly. The majority of these recommended greater restrictions in terms of bag and size limits for specific fish species.

- 7.7** The Committee acknowledged that local regular fishers would, through their observations and interest, possess quite useful information on fish stock status that could assist the Department when assessing fish stocks and developing appropriate management options.

- 7.8** Fishing journalist, Mr Al McGlashan also noted this potential information resource, as evidenced by the benefits of the game fish tagging program:

Best of all, anglers in New South Wales are at the forefront of that change. That is evidenced with the game fish tagging program, which is now the biggest in the world. Thousands upon thousands of anglers are volunteering time and money to help science learn about fish. The key issue is that, if we learn about them, we can manage them...Since they spend time on the water they have an affinity with it that you do not get in an office. You have to be out on the water to understand what is happening.⁶³⁰

- 7.9** Similarly, Mr John Williams, a recreational fisher of the Clarence river, advised that one of the fishing clubs that he belongs to runs a catch and release competition where data on Australian Bass is forwarded to I & I for their information:

I run the fundraiser each year up at Copmanhurst. We have a two-day fishing competition, which is catch and release immediately. It is catch, measure, record and release and the data is recorded on sheets provided by Fisheries. They are compiled into a spreadsheet and forwarded to Fisheries. Danielle Gosson is the lady I deal with at Cronulla.⁶³¹

⁶²⁸ Mr Bryan van der Walt, A/Manager, Recreational Fishing Programs, Department of Industry and Investment, Evidence, 19 April 2010, p 14.

⁶²⁹ Mr van der Walt, Evidence, 19 April 2010, p 14.

⁶³⁰ Mr Al McGlashan, Fishing journalist, Evidence, 27 April 2010, p 52.

⁶³¹ Mr John Williams, recreational fisher, Evidence, 15 June 2010, p 80.

- 7.10** The Committee sought to determine whether there was potential for the development of a process by which I & I could directly receive information from local recreational fishers on their observations of the health of fish stocks.
- 7.11** The Committee was advised that currently there are a number of methods by which this information is and can be provided. Mr Peter Turnell, Director, Fisheries Resource Management, Industry & Investment NSW, noted that through the bag and size limit review, questionnaires and information is sent out to local and regional areas, and that if anyone or any groups have observations about fish stocks specific to their area then that information is taken into account.⁶³²
- 7.12** On a more organised approach, I & I has provided a basis for game fishing and bass tournaments to record data which feeds into the ongoing scientific program on fish resource assessments. However, with respect to making greater use information from local fishing tournaments, Mr van der Walt advised that in order for the information to be used scientifically it needs to be collected in a robust and scientifically oriented manner.⁶³³

Committee comment

- 7.13** There is no doubt that the recreational fishing sector is a valuable information resource. The Committee believes that the more the recreational fishing sector is involved in resource assessment the more accepting it will be of management decisions that are developed on the basis of those assessments. The Committee acknowledges the partnerships that I & I has facilitated to date. However, it believes there may be further potential that is as yet untapped.

Recommendation 23

That Industry & Investment NSW investigate increasing the involvement of the recreational fishing sector in research and information gathering on the population and health of fish stocks.

Do reviews of regulations occur frequently enough?

- 7.14** As noted in Chapter 3, some inquiry participants argued that when concern was expressed by the recreational fishing sector over the health of a specific species too much time was taken to address this issue. Some participants argued that the length of time between reviews of fishing rules contributed to the emergence of problems.
- 7.15** The joint submission from the Australian Fishing Trade Association (AFTA) and the Boating Industry Association of NSW (BIA) noted that although the NSW Government is committed to reviewing bag and size limits every five years, this timetable is never met and that the interval between reviews often drags out to seven years or more. They contend that this length of time diminishes the effectiveness of this major tool in constraining both recreational and

⁶³² Mr Peter Turnell, Director, Fisheries Resource Management, Industry & Investment NSW, Evidence, 19 April 2010, p 29.

⁶³³ Mr van der Walt, Evidence, 19 April 2010, p 29.

commercial fishing. The submission calls for the reviews to strictly occur at least every five years and more frequently if required.⁶³⁴

7.16 I & I advised that effective action can be taken in the period between reviews, and cited the example of the recent change in bag limit for cobia:

If community concerns are raised about a particular species, I & I NSW usually reviews available fisheries resource information and current management arrangements. Consultation is also undertaken with the relevant advisory committee or council for that fishery, sector or industry. From time to time, working groups may also be established to consult on cross sector issues when developing options for future management arrangements.

A recent example included the implementation of a reduced bag limit for cobia. Queensland recently reduced its bag limit for the species and in consultation with the Advisory Council on Recreational Fishing, I & I NSW considered that some additional protection in NSW was required in the interim, noting that a broader and more comprehensive review of bag and size limits would commence in 2011. The bag limit for cobia was reduced from 20 to 5 as part of the *Fisheries Management (General) Regulation 2010*, which replaced the 2002 regulation on 1 September 2010.⁶³⁵

7.17 In evidence, Mr Roy Privett, General Manager, Boating Industry Association of NSW, reiterated that because bag and size limits are such effective management tools they should be reviewed more regularly than is currently the case. Mr Privett said that if more frequent rule changes were implemented, it should not prove difficult to ensure that recreational fishers were made aware of the changes:

We are saying that because they are such an effective management tool if it is obvious that fisheries are under stress they should be reviewed more regularly. They have not been. It has dragged out from five to seven years and perhaps longer. Surely in this day and age of immediate communication through the web, the media and fishing magazines changes to bag and size limits can be quickly disseminated. That would not be a problem. The majority of recreational fishers seek to comply with those requirements.⁶³⁶

7.18 However, as discussed later in this chapter, the dissemination of information to the recreational fishing community is not as easy as one would reasonably assume it should be.

Fishing gear restrictions

7.19 The NSW Government submission notes that the Fisheries Management Regulation defines a range of recreational fishing equipment and harvesting methods that anglers are permitted to use. Most of the equipment permitted is traditional, including rod and line or handline, small

⁶³⁴ Submission 891, Australian Fishing Trade Association and Boating Industry Association of NSW, p 13.

⁶³⁵ Answers to written questions on notice, Mr Bryan van der Walt, Acting Manager, Recreational Fishing Programs, Industry and Investment NSW, 5 October 2010, Question 6, pp 16-17.

⁶³⁶ Mr Roy Privett, General Manager, Boating Industry Association of NSW, Evidence, 30 August 2010, p 24.

traps for lobsters, crabs, yabbies and bait, hand-held spears or spearguns, bait pumps and small crab and prawn nets.⁶³⁷

- 7.20** While recreational fishers generally are content with bag and size limit regulations, they are more likely to have issues with regulations on the types of gear they can use. Mr Hayden Capobianco, a fishing tackle retailer, argued that some regulations were simply not practical:

With regards to red tape, some rules in recreational fishing are rules for rules' sake. For example, for prawning you cannot have a rod handle more than 1.2 metres in length. If you are walking the bank or wading and prawning, that is fine; if you are in a boat and prawning over the side, I would like to see anyone here with a 1.2-metre handle over the gunwale length, which is close to 900 millimetres above the waterline. They would be lucky to get that net in the water. If they did, they would be leaning over the side of the boat and then there is a safety issue.⁶³⁸

- 7.21** During the Inquiry it became evident that some regulations regarding fishing gear, while developed through a State-wide consultation process, can have a greater impact on certain recreational fishing user groups. In particular two restrictions were brought to the Committee's attention, namely set lines and electric reels.

Set lines

- 7.22** Set lines are fishing lines with one or more hooks that are left unattended by their anglers. Set lines were predominantly used by fishers in rivers west of the Great Dividing Range, including the Darling, Murrumbidgee and Lachlan Rivers. Following a review of fishing regulations, the use of unattended set lines was prohibited in 2007. Prior to this change each angler was allowed to have four set lines, which was in turn a reduction from an earlier allowance of ten lines.
- 7.23** The Committee received a number of submissions that called for a return to four set lines and this issue was the primary focus of most of the public hearing held in Griffith. The submissions predominantly came from authors who lived in the south-western area of the State. These submissions argued that set lines offered the only opportunity of catching fish in inland rivers and that their prohibition had resulted in a significant drop in fishing trips to the inland rivers.⁶³⁹
- 7.24** It was also argued that the prohibition was unnecessary given the existence of bag and size limits – which were never exceeded given the difficulty in catching the type of fish targeted by the use of set lines. Submission authors were also concerned at the loss of economic input to small towns arising from the drop in fishing trips.
- 7.25** Mr Ray Brown, a resident of Sydney, submitted that he had been fishing the inland rivers of the Murray/Darling systems with numerous friends for over forty years, however, he said, nearly all of his friends will no longer travel to the Darling River as there is little prospect of

⁶³⁷ Submission 1007, NSW Government, p 4.

⁶³⁸ Mr Hayden Capobianco, Fishing tackle retailer, Evidence, 29 April 2010, p 21.

⁶³⁹ For example: Submissions 5, 6, 7, 8, 9, 10, 12, 13, 18, 19, 20, 26, 75, 83, and 97.

catching fish. Mr Brown ventured that the economies of small regional towns are affected by such decisions.⁶⁴⁰

7.26 The Department of Fisheries and Compliance advised that during the last review of fishing regulations there was a lot of interest in the issue of set lines⁶⁴¹ and the change was made on the basis of the majority of responses received:

Many fishers have traditionally used set lines. However these lines may not be checked for many hours and research has shown that any undersized or threatened fish hooked therefore has a much lower chance of survival.

A discussion paper reviewing recreational bag and size limits in NSW waters was released for comment in 2005. The discussion paper included a proposal to prohibit set lines in NSW waters. A majority of responses supported the prohibition on the use of set lines and these changes were introduced in 2007. The number of attended lines was also increased to 2 and the distance a fisher may be from an attended line increased to 50 metres as practical measures to enable anglers to continue to enjoy fishing and camping on our inland rivers.⁶⁴²

7.27 Mr Peter Grant, Secretary, Yenda Hotel Fishing Club, said that most people in the inland country area were not aware of the proposed change and only became aware of the prohibition when it was reported in the media. In evidence, Mr Grant was critical of the level of community input the proposed regulation change was based on:

This was passed without appropriate public consultation. Out of a registered 500,000 fishos, only 3,300 voted on the change yet it still was passed. If you do your maths, that is only 0.7 per cent—not even 1 per cent. How could this law have been changed with such a minority vote? The reason the law was changed was to provide fish for future generations. Rubbish! The current fishing regulations for bag and size limits are more than enough to sustain a healthy supply of fish for future generations. It is a rare occasion when someone bags out on freshwater fish. We have been fishing of a weekend with set lines and not caught a fish.

Freshwater fishing is not like saltwater fishing, where you can go fishing for a few minutes and get a feed. Sometimes we have fished for days and caught nothing. This past change of set line laws was obviously made by people who have not fished in freshwater and used set lines. If you do a survey of the towns surrounding the Darling River they will tell you about a downturn in trade since the change in set line rules. We used to have an annual trip to the Darling River for a week. Not any more. No-one is going to drive for a day and spend hundreds of dollars on supplies and only be allowed to fish with only two rods.⁶⁴³

7.28 The South West Anglers Association is an association of recreational angling clubs in the Riverina and south-west region of NSW. It has a current membership of 23 clubs representing the interests of approximately 2,500 individual anglers. The Association's Secretary, Mr Terence Maloney, said the Association did circulate the information about the 2007 review

⁶⁴⁰ Submission 26, Mr Ray Brown, p 1; see also: Mr Peter Craig, recreational fisher, Evidence, 27 May 2010, p 23.

⁶⁴¹ Mr Turnell, Evidence, 19 April 2010, p 15.

⁶⁴² Answers to written questions on notice, Mr van der Walt, I & I, 14 May 2010, Question 3, p 14.

⁶⁴³ Mr Peter Grant, Secretary, Yenda Hotel Fishing Club, Evidence, 27 May 2010, p 2.

extensively through its membership and discussed it at length at meetings. Mr Maloney said that its membership was split about 50:50 for and against the proposed ban.⁶⁴⁴

7.29 Mr Grant, and others, argued that previously fishers would check their lines hourly and that 'he had never had a hooked fish die on him yet.'⁶⁴⁵ However, it is noted that it was common practice for set lines to be left overnight.

7.30 The Committee heard that the prohibition of set lines has had the greatest impact on older fishers. Mr Graeme Hurst, Secretary, Northside Leagues Club Fishing Club, said that membership of the local fishing clubs had dropped by more than 50 per cent and that social fishing events had dwindled.⁶⁴⁶

7.31 In evidence, members of the Northside Leagues Club Fishing Club questioned the position that fish hooked on a set line for a long period have less chance of survival than a fish hooked by other methods:

You cannot tell me from personal knowledge that that is as stressful as winding it and chasing it all over the river to try to get it into a boat on a lure without losing it, having three or four foot of set line and pulling gently on there so you don't get him out of the log, you don't hurt the fish, and if he is not legal size you tip him on his side, drop the hook out and he's gone, finished, over and done with. On a lure, you are going to be pulling, playing and everything, all over the shop. The fish has got to be going berko, it is praying for its life. No-one can tell me that that is less stressful. Like Jeffery said, a fish will get caught on a set line and 90 per cent of the time he will lay—play doggo, as we call it...⁶⁴⁷

7.32 Mr Peter Craig argued that the banning of set lines in order to replenish native fish stocks is unnecessary, as they are in good health:

My understanding of it—and that is only through a lot of verbal, from fishing clubs where I have asked the question—I feel the point was there are not a lot of fish caught. There are plenty of fish in the river, undoubtedly, but catching them is another thing. I think it was brought in to build up the numbers of fish. It is not required. There are ample fish in the river and that is where my argument can be flawed. You could say if there are so many there why is it so hard to catch the darn things. But it is a skill you need to catch those and with the set lines that gives me and my fellow fishermen a fair chance of spotting a fish.⁶⁴⁸

7.33 The Committee heard that the alternative fishing methods to set lines offered little chance for success to anglers, primarily due to the nocturnal feeding nature of the targeted species and the lack of clear conditions required for lure fishing.⁶⁴⁹

⁶⁴⁴ Mr Terence Maloney, Secretary, South West Anglers Association, Evidence, 27 May, 2010, p 52.

⁶⁴⁵ Mr Grant, Evidence, 27 May 2010, pp 4-5; see also: Mr Jim Muirhead, member, South West Anglers Association, Evidence, 27 May 2010, p 51.

⁶⁴⁶ Mr Grant, Evidence, 27 May 2010, p 4; Mr Graeme Hurst, Secretary Northside Leagues Club Fishing Club, Evidence, 27 May 2010, p 12.

⁶⁴⁷ Mr Hurst, Evidence, 27 May 2010, p 18.

⁶⁴⁸ Mr Peter Craig, Evidence, 27 May 2010, p 23.

⁶⁴⁹ Mr Craig, Evidence, 27 May 2010, p 24.

7.34 It was argued that a return to four set lines would be the only acceptable redress, as the number of fish caught with this allowance was minimal and sustainable.⁶⁵⁰ Mr Craig argued that the decision to prohibit set lines did not acknowledge the different conditions for fishers west of the divide.⁶⁵¹

7.35 On most issues examined throughout the Inquiry contrary views were expressed. It is also true that the stance of some parties with respect to an issue is often undermined by the actions of some who do not act legally. Mr Timothy Becroft, President, Tocumwal Angling Club said that his organisation, which fishes in generally clear water,⁶⁵² had adopted the position of not being in favour of set lines due to illegal practices:

We have seen what set lines can do, we have seen them in our area, obviously set by people who knew what they were doing. They were using stainless steel shaft hooks coupled to a small book with live bait with a small cod. We do not have a happy position on set lines, no.⁶⁵³

7.36 In evidence, Mr Cameron Westaway, Senior Fisheries Manager, Inland, Industry & Investment NSW, acknowledged the angst the change rules has caused for a large class of inland fishers who traditionally fished with set lines. Mr Westaway noted it was a slim majority of respondents to the 2007 discussion paper that favoured the prohibition, but, he argued, the mortality impacts of set lines justified the change:

In relation to set lines, by definition set lines were only checked periodically and may not be checked for up to 24 hours. This equates to longer hook-up time leading inevitably to higher mortality for any undersize or non-target fish species, including threatened fish species, and possible mortality of air breathing amphibians and mammals. The changes to set lines and the increase in the minimum size limit for cod were introduced in 2007 after the release of a discussion paper which received over 3,000 responses, the majority—a slim majority, but a majority—of which supported the banning of set lines and increased size limits. The ban has caused angst amongst some fishers who gained considerable enjoyment from the traditional use of this method. While this is unfortunate, I discuss issues with recreational cod anglers on a daily basis, and I am confident that the majority—a slim majority but a majority—of anglers support the change and that the mortality impacts of set lines justified the change. Release mortality from fishing where the angler is in attendance for undersize or non-target fish is very low and is not an issue for air breathing animals.

The increase in cod numbers has also meant that fishing with up to two attended lines from bank or boat now more consistently produces good catch rates and in my view a more enjoyable fishing experience. I acknowledge and recognise the angst and the impact on a class of fishers, a large class of inland fishers who do fish traditionally with set lines—especially elderly people for whom it is difficult to spend time in an uncomfortable boat for extended periods. I believe you can fish with bait successfully and, if you travel the same amount of time in a boat and fished periodically with bait moving around regularly, your catch rates might not match the set line catch rates but

⁶⁵⁰ Mr Craig, Evidence, 27 May 2010, p 25.

⁶⁵¹ Mr Craig, Evidence, 27 May 2010, p 24.

⁶⁵² Mr Timothy Becroft, President, Tocumwal Angling Club, Evidence, 27 May 2010, p 36.

⁶⁵³ Mr Becroft, Evidence, 27 May 2010, p 33.

they will be okay, given the recovery in the cod species, where the fishery is experiencing some fantastic results. For example, down here at Narrandera Fishing Club, 12 people, an afternoons fishing, 400 cod, most of which were undersize, but that is not any longer exceptional. There are a lot of cod out there.⁶⁵⁴

- 7.37** It does appear that the class of fisher most affected by the change is that of elderly anglers who have had a long history of this type of fishing method and who cannot easily adapt to alternative fishing methods.

Committee comment

- 7.38** The Committee did not discover how many of the approximately 3,000 submissions to the last review were made by fishers from the south-west area. The Committee notes it was advised that the membership of the South West Anglers Association itself was equally divided on the issue.
- 7.39** The distance a fisher could be from attended lines was increased to 50 metres as compensation for the banning of set lines. However, the Committee notes that in 2009-10, there were 93 offences for not complying with this regulation, the tenth most common type of offence.
- 7.40** The Committee believes the allowance of four set lines should be reinstated. Failing that the number of attended lines should be increased to four and the distance that a fisher may be from those lines increased to a more practical 100 metres. These issues could then be revisited during the review of fishing rules that will follow the 2011 review.

Recommendation 24

That the allowance of four attended lines, with a maximum distance of 100 metres allowable to the fisher be reinstated, this issue should be revisited during the review of fishing rules that will follow the 2011 review.

Electric reels

- 7.41** Electric fishing reels are generally used when targeting deep water fish species such as gemfish, blue-eye cod, hapuku, banded rock cod and bass groper. Their continued unrestricted use was considered at the August 2009 meeting of ACoRF. At the meeting the council recommended that a ban, subject to a permit system for acceptable use (for example, to assist disabled fishers), be implemented during the next review of bag and size limits.⁶⁵⁵
- 7.42** There was no broad protest among the recreational fishing sector on the proposed ban. Those who were critical of the proposal argued that it appeared to be regulation purely for regulation's sake – as the bag and size limit still applied further restrictions on gear was superfluous. Another criticism was the financial impact on those who legally purchased electric reels, who may now find themselves prohibited from using them.

⁶⁵⁴ Mr Cameron Westaway, Senior Fisheries Manage, Inland, Industry & Investment NSW, Evidence, 27 May 2010, p 54.

⁶⁵⁵ Advisory Council on Recreational Fishing, Outcomes from meeting 47, 25 August 2009, item 10

- 7.43** However the most common concern was that their continued use should be allowed for certain groups such as the disabled or elderly. In evidence, Mr Capobianco said that in his experience it was a very small number of anglers who used electric reels:

You are fishing in those deepwater seamounts. I have actually used a hand winch and pulled up some fish from that depth, and I am relatively fit. I would not say I could run 100 miles, but I am relatively fit and it is bloody hard work, to be honest. For those older anglers who have issues from playing sport—whether it is their shoulders or their knees—it is a long day and electric reels do help winding up four-odd pounds of sash weight plus the fish. The electric reels still have the option on the side with a handle where they can help the motor, but it gives people the opportunity to go and catch a nice-eating fish. To be honest, they do not get out there all that often because of the weather. You are going 30 kilometres out to sea, and in some places even further. It is a very weather-dependent sport, chasing gemfish and blue eye.⁶⁵⁶

- 7.44** Mr Stephen Dial, Moderator, *NewcastleFishing.com*, who himself suffers from rheumatoid arthritis and is involved with fishing with disabled children, argued that given the existence of bag and size limits there should be no reason for not allowing the use of electric reels:

You have got a bag limit on them. Hey, you catch your two fish. What does it matter if you use an electric reel or a manual reel? You still have got restrictions on the fish you catch. Fair enough, I have got no problem with that, but do not ban electric reels for the sake of banning electric reels.

I have been personally involved through the Maritime Museum in Newcastle with fishing with disabled kids. We got government grants so these kids could fish using electric reels. So what I am saying is there is no advantage in using an electric reel but it does make things easier when you want to retrieve your line. They don't play fish. They have got a drag just like a normal fishing reel. They have also got a handle to wind just like a normal fishing reel. They do not pull fish in any faster. They have a drag system on them, the same as every other fishing reel.⁶⁵⁷

- 7.45** The Committee sought to ascertain that consideration would be given to exempt appropriate categories of person from any future restriction on the use of electric reels and was advised that during the review I & I would certainly be looking at any arrangements to work with people with disabilities. I & I also advised that there was potential to include older people in an exempted class of fisher:

We would certainly be looking at any arrangements to work with people with disabilities. We are not trying to actually preclude people; we are just trying to devise the right set of rules for fishing.

...We potentially could [include older people], yes. It is one of the things we will consult on in the next review of bag and size limits, if they are to remain and have a role within the recreational fishing industry, exactly who should be entitled to use them.⁶⁵⁸

⁶⁵⁶ Mr Capobianco, Evidence, 29 April 2010, p 30.

⁶⁵⁷ Mr Stephen Dial, Moderator, *NewcastleFishing.com*, Evidence, 4 May 2010, p 16.

⁶⁵⁸ Mr Turnell, Evidence, 19 April 2010, p 16.

Committee comment

- 7.46** The Committee notes that some fishers who rely on the use of electric reels might be denied the opportunity to continue to participate in their pastime, if they are elderly or disabled. If as a result of the 2011 review electric reels are prohibited, the Committee believes that those fishers, such as the elderly or people with disability, who rely on electric reels should be exempted. It will be important that any proposed exemption criteria is not so narrow as to unfairly preclude fishers who because of their physical capacities rely upon their use.

Bag and size limits

- 7.47** NSW currently has a system of daily personal bag limits and possession limits for saltwater and freshwater fish, with over fifty species (or combination of species) covered by bag limits of 0, 2, 5, 10 or 20 per day. The setting of bag limits takes into account available science and considers traditional recreational fishing activity. Generally species that have higher bag limits are those which are more abundant and have fewer issues to do with sharing. All species are now subject to a general bag limit to prevent unlimited harvesting by recreational fishers.⁶⁵⁹
- 7.48** Size limits are the minimum and/or maximum length at which a fish may be legally kept. Currently over 40 species have a size limit, including freshwater and saltwater species. Size limits are based on biological information (where available) although other factors such as survival of released fish, interactions with fishing gear and marketability are also important.⁶⁶⁰
- 7.49** A number of inquiry participants were of the belief that different size limits applied to recreational and commercial fishers. The Committee was advised that size limits are uniform across both sectors, and that limits are set to ensure that the species continues to breed:

Basically where we have a size limit, it does apply equally to commercial fishermen as it applies to recreational fishermen. Basically the size limit is set in relation to the size of the fish that is required to protect juvenile species and to ensure that the species continues to breed. It is consistent between the two types of fishers.⁶⁶¹

- 7.50** A number of inquiry participants also argued that there should be national consistency for bag and size limits.⁶⁶² There is a natural appeal to pursuing national consistency in regulation. However, Mr Paul O'Connor, Principal director, Fisheries and Compliance, Industry & Investment NSW (I & I), advised that in some cases there are quite marked reasons for differences between jurisdictions:

While there is not exact consistency, quite often the reasons for having the differences in different States are well marked. For instance, we had a workshop on Murray Cod just recently and we had all the relevant States involved. The reasons for having one

⁶⁵⁹ Submission 1007, p 4.

⁶⁶⁰ Submission 1007, p 4.

⁶⁶¹ Mr Paul O'Connor, Principal Director, Fisheries and Compliance, Industry & Investment NSW, Evidence, 19 April 2010, p 7.

⁶⁶² For example: Mr Peter Hughes, Public Officer, Junction Inn Fishing Club, Evidence, 4 May 2010, p 63.

set of rules in South Australia and a different set of rules in Queensland and in northern New South Wales are quite marked and well justified. It is a question of whether it makes sense to have different rules.⁶⁶³

7.51 As noted throughout this report the recreational fishing sector supports the use of bag and size limits and views them as the most effective means by which to regulate their fishery. Recreational fishers themselves have frequently called for reduced bag limits and/or higher size limits for a number of fish species whose populations appear to be at some risk from fishing and other threats.⁶⁶⁴

7.52 In addition many recreational fishers also questioned the existence of what they view as excessive bag limits of twenty per day, as exists for a number of fish.⁶⁶⁵ Mr McGlashan noted that bag limits are higher than what most people fish to. He believed that this was evidence of self-regulation by recreational fishers:

At the end of the day, we want to catch fish. It is not in the fishermen's best interests to take all the fish. Many of us remember the old days when we used to fill the esky. That no longer happens. Very few people I know fish to bag limits these days. Bag limits are higher than what most of us fish to. That demonstrates that to a certain degree anglers are self-regulating. I think we can pass that on. Anglers are now much better educated about the fishery.⁶⁶⁶

7.53 For many recreational fishers catching one or two fish would constitute a successful fishing trip, and as noted in Chapter 3, it is between ten to twenty per cent of recreational fishers that take ninety per cent of the recreational catch.

Committee comment

7.54 Throughout the Inquiry participants questioned how an individual fisher who managed to take the bag limit for one or two species could realistically make personal use of that number of fish. The Committee was not presented with any evidence to demonstrate that the bag limits at the higher end of the scale were an effective or required management mechanism.

Calls for reductions in size limits for specific fish species

7.55 While there was a general consensus that 'excessive' bag limits could be reduced and size limits increased, a number of submissions did call for reductions in size limits for some specific species. Generally the motivation for these calls was the prevalence of fish just under the current size limits.

Murray cod

7.56 The current bag limit for Murray cod is two fish while the size limit is 60cm. In addition only one of the fish bagged can be over 100cm in length. Mr Becroft submitted that it could be reduced to a size limit of 50cm but with a corresponding reduction in the bag limit to one.

⁶⁶³ Mr O'Connor, Evidence, 19 April 2010, p 33.

⁶⁶⁴ See Chapter 3 for discussion on mulloway and snapper

⁶⁶⁵ For example: Mr Bob Penfold, recreational fisher, Evidence, 4 May 2010, p 8.

⁶⁶⁶ Mr McGlashan, Evidence, 27 April 2010, p 53.

- 7.57** The rationale for the proposed change is that most of the fish presently being caught, and subsequently released, are under the current size limit. Mr Becroft said that presently his club-members might fish all weekend and catch 50 fish all of which had to be returned. He reasoned that if fishers were able to retain one fish then this would reduce the amount of caught and released fish and satisfy the fishers' feeling of success.⁶⁶⁷
- 7.58** Mr Westaway advised that Murray cod numbers had improved since 1994, and that this was probably due to a number of factors. He noted that the minimum size limit for cod was increased to 60cm in the last review of fishing regulations in 2007. While there are a lot of cod Mr Westaway noted that the majority of cod in the rivers are under the current minimum size limit.⁶⁶⁸
- 7.59** It was argued that a main contributor to the increase in Murray cod was the results of the stocking program over previous years, and that in due course the fish currently being caught and released will grow to the legal size.
- 7.60** In evidence, Mr Steven Samuels, Vice-President, NSW Council of Freshwater Anglers, argued against reducing the size limit for Murray cod. Mr Samuels also took the opportunity to promote the increased use of slot sizes where both a minimum and maximum size limit is set for each species of fish:

I do not think we would support a reduction in the size limit for cod. I think what we would support, though, is more use of what is termed the slot size in relation to fishing for all species of fish. Quite often, when you say you have a minimum size, that is theoretically based on giving the fish the chance to spawn once, and then it can be removed from the system by harvesting. The only trouble is that if it is just over the legal size if it has spawned once, particularly in the case of cod, you remove 70 years of spawning when you take that fish out.

A lot of work has been done in the United States in relation to saying it is probably better if you take fish in between size, maybe between 60 and 80. So, if you do catch that big fish, instead of it hanging on the wall it is put back as an apex predator and as a primary breeder; and on the smaller side, fish deserve the chance to spawn once. I think the Murray cod limit has been set by Fisheries. I think it should even be increased, to be quite honest, because some of the work coming out of Fisheries at the moment indicates that, as with mulloway, the size is below the first spawning size of those particular species.⁶⁶⁹

Mahi mahi (Dolphinfish)

- 7.61** The current bag limit for mahi mahi is ten while the size limit is 60cm. In addition only one of the caught fish can be over 110cm.
- 7.62** Mr Dial argued that the current size limit for mahi mahi should be reduced to fall in line with the size limit in Queensland. Mr Dial said that at the moment the majority of mahi mahi hooked by anglers are under the current size limit, and have to be returned to the water.

⁶⁶⁷ Mr Becroft, Evidence, 27 May 2010, p 39.

⁶⁶⁸ Mr Westaway, Evidence, 27 May 2010, pp 53-54.

⁶⁶⁹ Mr Steven Samuels, Vice President, NSW Council of Freshwater Anglers, Evidence, 30 August 2010, p 40.

However, he said, because mahi mahi put up such a fight these returned fish invariably end up suffering some injury:

No-one can catch their bag limit because mostly they are undersize. This is what I am saying, let's drop the size. Has anyone here ever caught a dolphin fish? You know they go berserk. They go absolutely ballistic. They are not in real good nick when you have got to throw them back and no-one is going to cut their \$20 and \$30 lure off and throw them back, I can tell you that now.

Average size, I have caught 15 this season—they were keepers. The other 20 or 30 they were all undersize and all returned. So on average there are more caught under the 60-centimetre limit than there are actually over it. There is also a size limit on how many you can have over a certain length. Queensland has got it, so why not come into the same as them? That means anything 50 centimetres and up you do not have to throw back. They are going back injured anyway. They are the fastest-growing fish in the sea.⁶⁷⁰

- 7.63** The Committee notes that the research on the estimated survival rates of fish following catch and release reported in the NSW Government submission⁶⁷¹ did not include mahi mahi. Nor is it aware of the reason for the difference between the Queensland and NSW size limits. The Committee must also note that given the species is fast growing the problem presented by this possible anomaly should soon not be an issue.

Committee comment

- 7.64** A number of proposals for specific changes to bag and size limits were canvassed with the Committee. However, they were not examined in enough detail or with the benefit of all the scientific and other information that would be required to recommend or support a proposal.
- 7.65** The suggestions and proposals that have been included in this report have been included more to demonstrate the thought typically given by recreational fishers when arguing for changes. It is quite clearly not a case of the recreational sector clamouring for the right to extract greater numbers of fish. The rationale for these suggestions, regardless of whether or not they would ultimately be determined to be appropriate, is invariably based on protecting the fish population in question and ensuring the sustainability of the fishery.
- 7.66** The discussion demonstrates the importance of securing comprehensive input from members of the recreational fishing sector to the upcoming review of fishing rules. The issue of increasing communication channels between the recreational fishing sector and I & I is discussed in the next section

Distribution of fishing rules

- 7.67** I & I publishes the NSW Recreational Freshwater Fishing Guide and the NSW Recreational Saltwater Fishing Guide which includes, among other things, information on the relevant fishing rules and bag and size limits.

⁶⁷⁰ Mr Dial, Evidence, 4 May 2010, p 17.

⁶⁷¹ Submission 1007, Appendix 4, p 20.

- 7.68** It was clear that some inquiry participants were not aware of some of the current rules and regulations, such as there being no size limit on leatherjackets. Mr van der Walt told the Committee that some effort was expended in providing the booklets to the recreational fishing sector:
- We provide these recreational fishing guides and other sorts of brochures, which we have tabled, to our recreational fishing licence agents. They are also distributed by our fishcare volunteers and fisheries officers. Large numbers are printed each year for distribution free of charge, so a big effort goes in to try to get that message out to recreational fishers.⁶⁷²
- 7.69** The Committee notes that the booklets can also be accessed via the departmental website, although the durable published version is obviously the more practical alternative for use by recreational fishers.
- 7.70** Recreational fishing licence agents are the primary distribution point for the fishing guides and other information. Recreational fishers can purchase a fishing licence either in person at a licence agent or via the internet. The Committee heard evidence from current and former licence agents. Mr Capobianco said that in his case the majority of licence sales were three-day licences during the summer holiday period.⁶⁷³ Mr Williams said that the demand for longer-term licences at the shop front was not as great as it was five or six years ago. Mr Williams believed this was because fishers receive renewal notices in the mail and they have the opportunity to renew them online.⁶⁷⁴
- 7.71** From the evidence given it was apparent that there was no guarantee that when people purchased a fishing licence from an agent that they would receive a fishing guide and other information. Mr Capobianco also said that the amount of advice an agent could give when providing a fishing guide, if stocks were in store, naturally varied depending on how busy custom was at the time.⁶⁷⁵
- 7.72** The Committee was concerned that a significant percentage of recreational fishers were likely not to be receiving up to date fishing guides. It was advised that the option of including fishing guide booklets in renewal notices mailed to individual fishers was prohibited by cost.
- 7.73** In evidence, Mr Turnell agreed that I & I could look at producing a summary brochure that picks up the key rules that people need to know about and that this could be included in renewal notices. Mr Turnell advised this could be achieved within the current mailing and distribution costs.⁶⁷⁶ The Committee agrees that this is a worthwhile action and should be pursued.

⁶⁷² Mr van der Walt, Evidence, 19 April 2010, p 11.

⁶⁷³ Mr Capobianco, Evidence, 29 April 2010, p 22.

⁶⁷⁴ Mr Williams, Evidence, 15 June 2010, p 86.

⁶⁷⁵ Mr Capobianco, Evidence, 29 April 2010, p 29.

⁶⁷⁶ Mr Turnell, Evidence, 19 April 2010, p 12.

Recommendation 25

That Industry & Investment NSW produce a summary brochure of key recreational fisheries rules. These summary brochures should be distributed with renewal notices for recreational licences.

Using the internet to communicate with recreational fishers

- 7.74** Currently I & I attempts to meet the challenge of communicating with the one million recreational fishers through a variety of methods. These include the Fisheries website; the fishing licence agent network; communication by ACoRF and the trust expenditure committees; a database of recreational fishing organisations and 900 fishing clubs to which the Department will mail-out new information; and through the actions of the 350 Fishcare volunteers. The Department also has an email distribution of 400 individuals to whom it sends copies of the recreational fishing newsletter *Newscast*.
- 7.75** Throughout the inquiry the Committee explored the concept of making greater use of the internet/email to increase the flow of information between individual recreational fishers and I & I. When recreational fishers purchase or renew their fishing licences on-line, their email addresses are identified. However, when fishers purchase their licence from an agent there is no requirement to record an email address. Mr van der Walt advised that this was because the department did not want to place too great a burden on their licence agent network:
- That is mainly because we try to cut down on the information requirements that our agents have to fill out. Basically, we want to cut down the time it takes to sell the recreational fishing licence. So it is currently not on there. We would obviously like to have it on there, but I guess we need to take into account the agent's time. But, ideally, having the email addresses does represent a very good way of potentially reaching anglers.⁶⁷⁷
- 7.76** There was a strong consensus among inquiry participants that there should be a greater focus on electronic communication to improve interaction and ensure that all recreational fishers are advised of new relevant information in a timely manner. Mr Stan Konstantaras, President, NSW Branch of the Australian National Sportfishing Association (ANSA) noted that while members of his association regularly receive information and are able to keep up to date, individual fishers might not receive any communication other than when they receive their licence renewal notice which could be once every one or three years. Mr Konstantaras said that being able to electronically communicate with individual anglers would not only ensure they are advised of recent changes of which they need to be aware, it would also provide an opportunity advise recreational fishers of proposed changes and thus garner greater involvement in decision making processes.⁶⁷⁸
- 7.77** Mr Doug Joyner, Executive Officer, Australian Fishing Trade Association (AFTA), argued that given the increasingly wider use of the internet it was time for it to be used as the primary communication method with the recreational fishing sector. Mr Joyner said that consideration

⁶⁷⁷ Mr van der Walt, Evidence, 3 September 2010, p 21.

⁶⁷⁸ Mr Stan Konstantaras, President, NSW Branch, Australian National Sportfishing Association, Evidence, 27 April 2010, p 44 and p 48.

must now be given to finding a mechanism to make use of the database of email addresses gathered through the fishing licence renewal process.⁶⁷⁹

- 7.78** At the final public hearing the public was advised I & I was investigating what was required to enable it to make use of the database of recreational fisher email addresses it had been collecting since 2008:

We are also looking at the email addresses we have collected during the sales of fishing licences, through electronic means. In 2008 we integrated to the Government Licensing Service, which allowed us to collect email addresses, and we are currently looking at that database to try to use that facility as well.⁶⁸⁰

Committee comment

- 7.79** The Committee believes it is essential that the scope for communicating with individual recreational fishers be significantly increased. The Committee notes that while society in general is increasingly embracing the internet/email, this is not uniform across the State or among different generations. However, if a mechanism for communicating via email addresses is established it will capture significantly more recreational fishers than is currently the case.
- 7.80** The Committee believes that ideally there needs to be the capacity to capture the email address of recreational fishers whenever they purchase or renew a fishing licence, whether that be on-line or through a fishing licence agent. In investigating how it can make use of its database of fishing licence emails, I & I should also investigate how it can make this database as comprehensive as possible.

Recommendation 26

That Industry & Investment NSW develop an email address database of recreational fishing licence holders with a view to using this as a means of direct communication and interaction with the recreational fishing sector.

- 7.81** As discussed in Chapter 3 a problem for the effective assessment and management of recreational fishing is that it is impossible to accurately estimate the number of person that go recreational fishing, as certain classes of people are exempted from requiring a fishing licence.
- 7.82** A related concern is that there is no adequate mechanism for alerting and ensuring these groups possess up to date information on the rules that regulate their activity. It was suggested that these groups should be required to acquire a fishing licence for a nominal fee.⁶⁸¹

⁶⁷⁹ Mr Doug Joyner, Executive Officer, Australian Fishing Trade Association, Evidence, 30 August 2010, p 24.

⁶⁸⁰ Mr van der Walt, Evidence, 3 September 2010, p 20.

⁶⁸¹ Mr Max Castle, Past President and Life Member, Sea Bees Boating Club, Evidence, 3 September 2010, p 59.

- 7.83** Of the exempted classes, pensioners would represent the largest group without a representative support network that can communicate with them, while children will eventually come to require a standard adult licence.
- 7.84** The Committee believes that action should be taken to identify the pensioner class among the recreational fishing sector and to develop a communication channel with them.
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Recommendation 27

That Industry & Investment NSW investigate, with a view to developing, a fishing licence registration scheme for all licenced fishers other than exemptees.

Compliance enforcement

- 7.85** The actions of those who act illegally and deliberately remove fish and other marine organisms in breach of protected status regulations, bag and size limits and area closures were equally detested by inquiry participants from all stakeholder groups. There was also general agreement among stakeholders that a greater compliance effort was required.

Compliance resources

- 7.86** The submission from the NSW Government states that fisheries officers and marine park rangers play a key role in optimising compliance with fisheries laws established by the *Fisheries Management Act 1994*, marine parks legislation and Commonwealth legislation relating to fisheries and the environment.
- 7.87** The compliance strategies used, draw from the model developed under the *Australian Fisheries National Compliance Strategy 2005-2010*. These strategies seek to achieve the 'optimal level of compliance' in any given fishery or with natural resource management as a whole. The optimal level of compliance is defined as:
- That which holds the level of non-compliance at an acceptable level, which can be maintained at a reasonable cost for compliance/enforcement services, while not compromising the integrity and sustainability of the resource.⁶⁸²
- 7.88** Fisheries officers perform a range of regulatory functions, including issuing cautions or penalty notices for minor fisheries offences and preparing offence reports for serious offences. Officers conduct, or participate in, investigations and special operations to detect fisheries crimes and are required to attend court to give evidence in relation to fisheries offences.
- 7.89** Education and advisory duties are important in promoting and maintaining voluntary compliance and include distributing and explaining education material and responding to enquiries from the public and other agencies. Officers also give talks and presentations to

⁶⁸² Submission 1007, Appendix 5, p 22.

fishing clubs, schools and community groups and organise events such as fishing clinics and advisory stands at trade shows and field days.⁶⁸³

7.90 In this education to maintain voluntary compliance role fisheries officers are supported by over 300 Fishcare volunteers. The Committee was advised that in 2008-09 Fishcare volunteers attended over 600 events and made 125,000 individual contacts.⁶⁸⁴

7.91 There are ninety-two fishery compliance officer positions across NSW. In addition to that there are ten marine park officers who are co-warranted to undertake fisheries compliance. I & I advised that compliance responsibility is focused to areas of need determined by demographics of population and fishing activity:

There are 67 compliance officer positions based along the coast and within that number there are teams that direct their activities towards areas of most need at any particular time.

The area of inland rivers is highly variable depending on drought or flood conditions. There are 20 compliance officer positions located in regional inland areas.

In addition there are 5 positions dedicated to habitat compliance on the coast and habitat and aquaculture compliance on the inland.

Of the 67 compliance officer positions based along the coast, 14 positions are based in the metropolitan area encompassing southern Sydney to the Hawkesbury River and Central Coast.

Other officers within the State-wide Operations and Investigations group also carry out compliance activities within this area.⁶⁸⁵

7.92 I & I advised that Western Australia, South Australia, Victoria and Queensland all have a similar number of fisheries officers, generally around 100. All States direct their compliance resources to the area of most fishing activity and maintain a flexible capacity to rapidly respond to changing demands. I & I consider that fisheries compliance resources Australia wide are generally on a par.⁶⁸⁶

7.93 In evidence Mr O'Connor said that compliance officers are afforded a degree of discretion to ensure that the type of compliance intervention matches the gravity of the offence:

On some occasions we might find that a recreational fisher might have, for argument sake, one undersized fish. If the bag limit, for argument sake, was 20 and they had one undersized we might say to them, "This is an issue. You need to make sure you are careful about this." We might give them a verbal caution. They are examples of where we might give verbal or written cautions. On some occasions we will look at the issue

⁶⁸³ Submission 1007, Appendix 5, p 22.

⁶⁸⁴ Mr O'Connor, Evidence, 3 September 2010, p 11.

⁶⁸⁵ Answers to questions taken on notice during evidence, 3 September 2010, Mr Bryan van der Walt, Acting Manager, Acting Manager, Recreational Fisheries Programs, Industry & Investment NSW, Question 6, p 4.

⁶⁸⁶ Answers to questions taken on notice during evidence, 19 April 2010, Mr Bryan van der Walt, Acting Manager, Acting Manager, Recreational Fisheries Programs, Industry & Investment NSW, Question 5b and c, p 5.

and issue a penalty notice because it is something that people see as efficiently dealing with the issue. On other occasions where we find that the issue of non-compliance is systemic or major in kind then we might prosecute. So we have a gradient of prosecution responses that are available to us and we try to do it in a strategic way.⁶⁸⁷

Do recreational fishers comply with the regulations?

- 7.94** While all stakeholders deplored the actions of recreational fishers who acted illegally, there was a clear division among them on the degree of prevalence of this activity. Inquiry participants from the recreational fishing sector were ashamed of what they saw as the very small minority of illegal recreational fishers. While, Mr Dave Thomas, President, EcoDivers, asserted that recreational fishers as a group have a general disregard for regulations.⁶⁸⁸
- 7.95** The NSW Government submission noted that the compliance level of recreational fishers in NSW was 88 per cent – that is of every 100 anglers inspected only 12 are found to be in breach of regulations. Mr O'Connor explained that Fisheries and Compliance kept comprehensive records of compliance checks and that the bulk of non-compliance relates to either not purchasing or carrying of a fishing licence.⁶⁸⁹
- 7.96** The table below displays the ten most recurrent offences for the 2009-10 year

Table 4 10 most recurrent offences 2009-10

Offence	Number	%
Recreational fisher fail to have official receipt in possession	1652	29.4
Recreational fisher fails to pay fishing fee	1056	18.8
Possess prohibited fish size	506	9.0
Unlawfully use net or trap for taking fish	206	3.7
Possess prohibited size fish – first offence	177	3.1
Possess more than maximum quantity of fish	167	3.0
Possess fishing gear for fishing when such gear prohibited	165	2.9
Use more than 2 hand held lines in inland waters	146	2.6
Take fish in contravention of a fishing closure	134	2.4
Leave line unattended outside 50 metres and vision	93	1.7

- 7.97** Notwithstanding the high compliance rate among recreational fishers, stakeholders called for an increase in the number of compliance officers. It should be noted that in calling for greater compliance officers, many inquiry participants were concerned about the activities of both recreational and commercial fishers.

⁶⁸⁷ Mr O'Connor, Evidence, 19 April 2010, p 27.

⁶⁸⁸ Mr Dave Thomas, President, EcoDivers, Evidence, 30 August 2010, p 48.

⁶⁸⁹ Mr O'Connor, Evidence, 19 April 2010, pp 18-19.

The call for more compliance officers

7.98 A number of long-time fishers told the Committee that they had never been approached by a Fisheries compliance officer.⁶⁹⁰ Mr John Burgess, Executive Officer, Executive Officer, Australian National Sportfishing Association (ANSA), said that in fifty years he has never been approached:

I have been a recreational fisher for something like 50 years now and in that time I have fished every week...In all those years, apart from when I was doing some consultancy work for New South Wales Fisheries where I do meet them, I have never been approached by a fisheries inspector or a compliance officer in the field. I fish extensively in Sydney and I fish up and down the coast.⁶⁹¹

7.99 However, other witnesses noted the opposite. Mr Dial said that he regularly witnessed fisheries compliance officers out near fish aggregating devices.⁶⁹² It should also be noted that some members of the Committee who fish have themselves been inspected by compliance officers.

7.100 In calling for more compliance officers Mr Burgess, ANSA, argued that the compliance section was grossly understaffed. He also emphasized the essential educative role played by these officers:

More funds should be made available. It is a core activity of New South Wales Fisheries or Industry and Investment to have more people in the field, not only to catch people who are acting illegally but also to encourage the requirement to have a licence and to educate people far better than they are at the moment. When I see some of the things that people do I am very embarrassed to be a recreational fisher.⁶⁹³

7.101 In evidence and submission, Mr Karl Schaerf, Honorary Secretary, Central Acclimatisation Society called for an increase of six inland compliance officers. In evidence, Mr Schaerf listed the problems encountered with the current numbers of staff, particularly with respect to the Western Division of the State:

Over Easter there was an incident at Trangie. I was sent a text message from a member of my society and we had to arrange to get the compliance officers, as they are now known, from Dubbo to attend. I cannot go into the details because I am not familiar with them. However, I can certainly say that it was a serious event. The offenders were apprehended, which was great, but we have serious issues when fishers ring the so-called hotline—the 1800 number—and get nowhere. They get a recorded message. Compliance officers go on leave for various reasons—compliance officers must take periods of leave—and there are no relief officers to cover those periods. Often they have kids of their own so they take leave during school holiday time. Being a parent myself, although my children are now grown up, I can understand why people want to take their annual leave during school holidays. It is a simple matter.

⁶⁹⁰ For example: Mr Williams, Evidence, 15 June 2010, p 79.

⁶⁹¹ Mr John Burgess, Executive Officer, Australian National Sportfishing Association, Evidence, 19 April 2010, p 65.

⁶⁹² Mr Dial, Evidence, 4 May 2010, p 18.

⁶⁹³ Mr Burgess, Evidence, 19 April 2010, p 65.

But the compliance officers are not allowed to operate on their own; they must operate in pairs, for obvious reasons, because there have been instances when they have been threatened and attacked, in particular, on the coastal fringe. There have been attacks on compliance officers and I am aware that serious assaults have occurred at various times. We need more compliance officers. The current stations, as they are usually referred to, are not necessarily located near to the areas where these serious offences are taking place.⁶⁹⁴

7.102 Mr Schaerf went on to note that a number of inland compliance officers are currently funded from the Recreational Freshwater Trust. He argued that the NSW Government should meet more of its community service obligations by funding more compliance officers.⁶⁹⁵

7.103 At the public hearing in Griffith the Committee heard that an Inland fisheries compliance officer had been extensively involved in investigations related to a prosecution for an environmental offence for the best part of twelve months, thus impacting on his normal compliance enforcement duties. This was acknowledged by Mr Westway who advised that this was an extreme and complex case, and that the best avenue for prosecution in this case was under the *Fisheries Management Act 1994* as the offence involved damage to fish habitat.⁶⁹⁶

7.104 Mr O'Connor agreed with the premise that it would always be beneficial to have more compliance officers. However, he said that the approach they take is to educate people, have high enough penalties and create a perception that you are likely to get caught and strategically target the small percentage of people who are acting illegally:

Achieving compliance is firstly a question of getting people to understand why we have the fishing laws that we have, so education is an important tool. What you will then find is that if you have high enough penalties and there is a perception that you have a risk of getting caught, then people will comply. We try and create the perception that there is a risk of getting caught by publicising in the press captures of people doing illegal activities.

We get a lot of publicity and there is a lot of support for that in the regional media. In the end you can always have more Fisheries officers; we could always do with more Fisheries officers, but in the end what we try to do is to strategically address the compliance risks that we see. We try to work very constructively with industry and we try to do it based on education so that we get optimised compliance and we get, in large measure, voluntary compliance. So 90 per cent of the people will look at the fishing rules, understand what it is we are trying to do, and 90 per cent of the people will support it. It is then a question of targeting the other 5 or 10 per cent who perhaps are doing the wrong thing and trying to be strategic in the way you address that.⁶⁹⁷

7.105 However, the Committee notes the evidence of some inquiry participants who pointed out the vast areas, particularly inland areas that need to be patrolled.⁶⁹⁸ Mr Williams said that three

⁶⁹⁴ Mr Karl Schaerf, Honorary Secretary, Central Acclimatisation Society, Evidence, 27 April 2010, p 25.

⁶⁹⁵ Mr Schaerf, Evidence, 27 April 2010, p 25.

⁶⁹⁶ Mr Westaway, Evidence, 27 May 2010, p 5.6

⁶⁹⁷ Mr O'Connor, Evidence, 3 September 2010, p 6.

⁶⁹⁸ For example: Mr John Clarke, recreational fisher, Evidence, 4 May 2010, p 29.

officers were responsible for his local area. It was his understanding that during the last seasonal three month closure of the Mann and Nymbodia river systems compliance officers could manage only one patrol of that area. He believed that if the staff allocation was increased threefold they would still be overworked.⁶⁹⁹

Committee comment

- 7.106** It is not practical to employ enough compliance officers to satisfy the desire of some to have a regular visible compliance presence. However, the Committee can understand the number of calls for at least some increase to the current allocation. In particular the Committee notes the dissatisfaction of those inquiry participants who were critical of the response when they reported offences.
- 7.107** While the current contingent of compliance officers in NSW might be on par with that of other States. The Committee believes that given the State's respective geographic size and fishing population that it should be more than average.

Recommendation 28

That Industry & Investment NSW undertake a review of the staffing of compliance officer positions in view of the need for extra compliance officers.

Fin clipping recreational catch

- 7.108** The daily bag limits for fish potentially allow a single fisherman, with the expertise or luck, to catch a significant amount of fish on a daily basis. In evidence, Mr Leslie Cheers, commercial fisher, recounted how much a recreational fisherman could catch and concluded that in such cases these fish are more than likely being resold:

As a recreational fisherman, I went out with a friend from Sydney and we got a few tubs full of fish, some nice pearl perches and snapper, and we still had not reached our bag limit, the two us. It was roughly \$300 worth of fish on the handline. Recreational fishermen can do that every day for the price of a fishing licence, and some of them are doing it. They are not eating all those fish. The Minister now wants us to buy another endorsement, double up mine to buy another fisherman out so that I can go and handline those fish, which will cost me \$30,000 to buy another 20 shares to go out and handline snapper. Why would I want to pay that when I can go and get a recreational fishing licence?⁷⁰⁰

- 7.109** The Committee was advised that while the percentage of recreational fishers involved in taking fish for some sort of commercial gain was relatively small it was still an important issue. I & I advised that it did receive reports of alleged activity from members of the public and concerned anglers from time to time.⁷⁰¹

⁶⁹⁹ Mr Williams, Evidence, 15 June 2010, p 81.

⁷⁰⁰ Mr Leslie Cheers, commercial fisher, Evidence, 4 May 2010, p 50.

⁷⁰¹ Mr Turnell, Evidence, 3 September 2010, p 11.

- 7.110** During the Inquiry the Committee raised the potential for fin clipping of recreational catches. The rationale for this proposal is that fish caught and killed by recreational fishers must have their fins clipped, identifying them as ineligible for commercial sale and thus not present in commercial outlets.
- 7.111** Mr Turnell advised that the issue of fin clipping a certain group of species had been raised at the ACoRF. Mr Turnell advised that in general the concerns raised regarding the proposal were centred on not unnecessarily adding another level of complexity to the regulations by which recreational fishers must abide:

There was initial concern that imposing yet another rule to a group of species would be a little confusing for recreational anglers. We certainly did not want to be catching people up in prosecutions who did not deserve to be. In other words, they were concerned there are already bag limits on certain species and they vary. Some do not have a bag limit and there are different size limits on different species. Then to introduce a category of species that had to be fin clipped could be problematic. We then considered, at someone's request, fin clipping of all recreationally caught species. At the moment we think that is potentially a bit of overkill to try to get some compliance from this relatively small sector of people who do not want to obey the rules. We are in continual negotiation or consultation with the Advisory Council on Recreational Fishing to see where fin clipping may have a role.⁷⁰²

- 7.112** The General Manager of the BIA said his organisation would support any strategy that prevents a seepage of recreational fish to commercial activity, and as such the fin clipping measure was worthy of examination.⁷⁰³

Committee comment

- 7.113** The Committee can understand the argument that the entire recreational fishing sector should not be burdened with a new requirement in order to address the illegal activities of a small percentage of anglers. However, given these 'shamateurs' are illegally extracting this resource, recreational fishers might be in favour of the proposal.
- 7.114** The Committee also notes that the 'shamateurs' who regularly engage in this practice and have come to rely on the income it provides would be catching a large number of fish. Potentially fin clipping could be required. Reducing what are seen as excessive bag limits for some species of fish might also assist in addressing this problem.
- 7.115** The Committee agrees that a fin clipping measure is worthy of further examination. It believes it would be worthwhile for I & I to develop a proposal for consideration during the review of fishing regulations in 2011.

Recommendation 29

That fin clipping for all recreational fish be investigated.

⁷⁰² Mr Turnell, Evidence, 3 September 2010, p 11.

⁷⁰³ Mr Privett, Evidence, 30 August 2010, p 24.

Improving fisheries management

7.116 A number of inquiry participants believed that structural reform was necessary to improve the overall effective management of fisheries. Generally there were two proposals put to the Committee; first that there should be a Minister dedicated to fisheries, and second the roles of a number of government departments relevant to fishing and boating activities should be combined.

Reinstatement of a Minister for Fisheries

7.117 A number of inquiry participants believed that the incorporation of the previous Department of Fisheries into the super department of I & I has seen the importance of recreational fishing diminish within government. Mr Capobianco captured the feeling of many participants when he told the Committee 'I would like to see Fisheries back the way it was when it was just Fisheries.'⁷⁰⁴ For many stakeholders with lengthy experience in recreational fishing matters it was difficult to not keep referring to 'NSW Fisheries'.

7.118 Mr Schaerf shared with many others the perception that fisheries issues no longer receive the importance they deserved, and this was represented by it being a small functional unit within the super department of I & I:

Compared with other agencies such as Industry and Investment NSW, the fisheries department is very small. I believe it is regarded and treated as insignificant. I think I used the term "subservient" in my submission. I may not have, but I am prepared to say it here and now. It is subservient to the interests of agriculture and even more so these days to mining. The many activities overseen by Industry and Investment NSW take far greater precedence. I can understand that economically but not environmentally.⁷⁰⁵

7.119 The Recreational Fishing Alliance of NSW was another recreational fishing group that called for the reinstatement of a Minister for Fisheries. Its submission lists a number of issues on which it believes the government has been inactive because of the lower profile of Fisheries, and the absence of a Minister representing its interests at the Cabinet table:

- Recognition of a peak user body.
- Lack of action on important angler access issues.
- Interference by Department of Environment, Climate Change and Water and the Marine
- Parks Authority in fishing activities in marine parks, national parks and Recreational Fishing Havens.
- Difficulties establishing MoUs with other departments regarding access and fishing.
- Lack of leadership and advocacy by Fisheries staff on major cross-portfolio issues such as marine parks.

⁷⁰⁴ Mr Capobianco, Evidence, 29 April 2010, p 28.

⁷⁰⁵ Mr Schaerf, Evidence, 27 April 2010, p25; see also: Mr Melven Brown, retired fisher, Evidence, 29 April 2010, p 33.

- Lack of recognition, funding or promotion of recreational fishing activities by Tourism NSW and Communities NSW.
- Difficulties in achieving appointments for recreational fishers to Department of Environment, Climate Change and Water and the Marine Parks Authority consultative committees.
- Lack of commitment or engagement by some agencies to consult with recreational fishers in a timely and transparent manner.
- Inadequate funding for Fisheries to engage permanent staff to tackle core activities.
- The creeping influence of larger encroaching into areas which have traditionally been managed by Fisheries.⁷⁰⁶

7.120 There is a belief that if there had still been a Minister for Fisheries that the outcome of the marine park process would have been different. However, we must also note the perception of others that the then Minister for Primary Industries acted in the interests of recreational fishers during these processes.

Amalgamation of compliance and education functions

7.121 Boating activity, including fishing from vessels, is regulated by a number of government departments, each of which has a compliance/education function. Throughout the Inquiry the question of whether there should be some form of amalgamation of these various departments was raised. A number of participants noted the apparent inefficiency in that an individual could be boarded and checked by a number of different departmental officers from NSW Waterways, I & I, the marine park authorities and/or the police. Mr John Moore, Member, Narooma Sporting and Services Fishing Club, told the Committee that he had been boarded and checked three times on the one day:

When you are out there at the moment you could be boarded by Waterways, Fisheries, Marine Parks and Water Police, and I have had three of those on one day. Not to have a unified organisation that has marine protection as its core is ridiculous.⁷⁰⁷

7.122 A number of witnesses said that while fisheries compliance officers had the respect of the recreational fishing community the same could not be said for Marine Park Authority officers.⁷⁰⁸ Mr Peter Hemmings Member, Hat Head Bowling and Recreation Amateur Fishing Club, expressed the view commonly shared among the recreational fishing sector:

We find Fisheries staff very easy to get on with. We respect Fisheries staff and we do not mind helping Fisheries staff. However, some of the other issues we face with other marine bureaucrats or officers—

⁷⁰⁶ Submission 943, Recreational Fishing Alliance of NSW, pp 12-13

⁷⁰⁷ Mr John Moore, member, Narooma Sporting and Services Fishing Club, Evidence, 26 May 2010, p 59.

⁷⁰⁸ For example: Mr Williams, Evidence, 15 June 2010, p 79.

...Marine parks do not come into Hat Head, but we have a lot of issues reported to us via our members and our visitors with authoritarian-style management of marine parks and heavy-handedness, if you like. Fisheries have our respect and support. By "our", I mean our members. Other agencies do not have that.⁷⁰⁹

7.123 A similar view was expressed to the Committee during the public hearing at Batemans Bay. Mr David Clark, President, Narooma Sporting and Services Fishing Club, said that whenever he had been boarded by Fisheries officers he had appreciated their cooperative spirit and their ability to converse on equal terms with fishers. He said he also found marine park officers to be polite, however there was some friction due to the regulations that they were enforcing.⁷¹⁰ It was pointed out to the Committee that both the marine park officers at Batemans Marine Park were ex-Fisheries staff.⁷¹¹

7.124 It would appear that in many cases the more negative perception of the conduct of marine park staff is at least partly due to the attitudes towards marine parks and the associated regulations which they are bound to enforce. It would also appear that it was not universally known that Marine Park Authority officers are co-warranted to check and enforce fisheries regulations

7.125 Mr Hemmings also noted that from the perspective of the average fisher it seemed there were too many bureaucracies dealing with essentially the same issue:

There was a tournament held in Port Stephens. The writer of that article reported that at that tournament there were Water Police, Waterways, Fisheries and the Marine Parks Authority. They were checking the various areas, I guess, of whatever it is they do. To me, that seems a bit crazy, as a normal Joe fisher, to have that many people with their vehicles and with their boats—obviously Water Police, Fisheries, Waterways and the Marine Parks Authority must have boats. To me, each of those organisations—and we can leave the police out because they do other things—must have support staff, bureaucracies, buildings, offices to live in, secretaries, whatever. As a normal thinking person, if it is all involved in the marine or aquatic environment, we would see that one, and one only bureaucracy, could perhaps look after everything.⁷¹²

7.126 Mr Lawrence McEnally, Director, Macleay River Fishermen's Cooperative, who previously was the regional manager north for NSW Maritime said that the current overlap of some regulatory functions indicated that an amalgamation was warranted:

The current position is that they could be amalgamated. Queensland and Western Australia have already done it. They have marine and fisheries combined. From an inspectorial role—do not forget that in the back room of being a public servant, if you combine the legal branch, the human resources branch, the accounts branch, the

⁷⁰⁹ Mr Peter Hemmings, Member, Hat Head Bowling and Recreation Amateur Fishing Club, Evidence, 5 May 2010, p 13; see also: Mr Stanley Britten, Vice-president Hat Head Bowling and Recreation Amateur Fishing Club, Evidence, 5 May 2010 p 13.

⁷¹⁰ Mr David Clark, President, Narooma Sporting and Service Fishing Club, Evidence, 26 May 2010, p 51, and p 59.

⁷¹¹ Mr Moore, Evidence, 26 May 2010, p 59.

⁷¹² Mr Hemmings, Evidence, 5 May 2010, p 13.

licensing branch, it is irrelevant. There are millions of dollars worth of savings because they all do the same thing. Now with Fisheries registering charter boats and Maritime with licensed fishing boats, there is so much overlap that they would hardly notice if you combined some of the branches. It would not make a scrap of difference.⁷¹³

7.127 Mr McEnally agreed that if an integrated licensing system was implemented then there would be even more grounds for pursuing amalgamation of compliance and education functions.⁷¹⁴ While Mr Max Frost drew the Committee's attention to the situation in the United States where the Fish and Wildlife Department has authority for all regulation and enforcement on the water, as an effective example of what could be achieved.⁷¹⁵

7.128 Mr Privett said it had been a long-standing policy of his organisation that there should be a closer relationship between fisheries officers and NSW Maritime. He said the main reason for this was the greater benefit that would accrue to their respective educational roles:

The closer relationship between fisheries officers, NSW Maritime and boating officers has been a longstanding policy of our organisation with regard to efficiencies and economies. There has been a certain degree of that happening in recent times with the amalgamation of back-of-house officers, sharing of boats et cetera. However, the most important issue is that these people are also in an educational role. They are not simply compliance officers, they are also educationalists. We believe that when NSW Maritime officers are on the water they should know the fishing regulations and take the opportunity to educate. That is where we primarily see that happening. The suggestion of including marine parks personnel is good because they simply do not have the resources to administer the areas under their control on a day-to-day basis. It would be of benefit to the community if these activities were spread across the three agencies. As to which would be the lead agency, that would need further consideration.⁷¹⁶

Committee comment

7.129 Earlier in this chapter the Committee recommended that the number of fisheries compliance officers be increased. An amalgamation of regulation, compliance and education functions could potentially release funds for an overall increase in frontline officers.

7.130 The Committee took the opportunity via questions on notice to ask witnesses to consider whether there would be any advantage either in cost saving or operational efficiency from merging the operations of these departments, and if it was to occur which should be the lead agency. There were a range of responses. A majority, but not all, favoured an amalgamation of some sort. While Fisheries and Compliance (I & I) were most frequently nominated as the appropriate lead agency, NSW Maritime was also recommended by some respondents.

7.131 Based on the evidence received the Committee is not in a position to state that an amalgamation should take place, nor in what form.

⁷¹³ Mr Lawrence McEnally, Director, Macleay River Fishermens' Cooperative, Evidence, 5 May 2010, p 33.

⁷¹⁴ Mr McEnally, Evidence, 5 May 2010, p 33.

⁷¹⁵ Mr Max Frost, recreational fisher, Evidence, 5 May 2010, p 73.

⁷¹⁶ Mr Privett, Evidence, 30 August 2010, p 23.

Access issues

7.132 Access is an increasingly important issue for many recreational fishers. The NSW Government submission notes that historically recreational fishers have enjoyed widespread access to creeks, dams, estuaries and ocean waters via numerous access points across NSW. However, over time some access points have been lost through foreshore development, road closures and various environmental planning processes.⁷¹⁷

7.133 The NSW Government submission states that it works towards enhancing recreational fishing access through the facilitation of partnerships:

The NSW Government facilitates recreational fishing access through partnerships between state agencies and key stakeholders, negotiating access arrangements on behalf of stakeholders and developing management solutions, including Crown Land important for angler access.

A recent example includes Paddy's Corner reserve on the Thredbo River near Jindabyne which is now managed by the Monaro Acclimatisation Society. Fishing trails along the Guy Fawkes River have also been implemented with the Ebor Progress Association. Fence stiles, signage and walkways have been installed to greatly enhance fishing access in this area.⁷¹⁸

7.134 Mr Westaway acknowledged that maintaining access was a key concern for inland anglers. The department employs access officers, funded by the recreational fishing trust, to work with local stakeholders:

We also employ recreational fishing access officers funded by the trust to work closely with the Land and Property Management Authority—formerly Department of Lands—the Department of Environment, Climate Change and Water, local government, water infrastructure agencies and private landholders to maintain and enhance recreational fishing access.⁷¹⁹

7.135 The fishing trusts fund the ongoing salary costs of two fisheries access managers whose role is to work closely with government agencies and other landowners to maintain and improve current access to popular local fishing spots. The trusts also fund a two-year project, for which the Recreational Fishing Alliance of NSW is the proponent, entitled 'NSW Crown Lands and Reserves vesting and securing recreational fishing access for the future.' The aim of the project is to identify existing crown reserves or Crown parcels of land, which could be formed into reserves dedicated for recreational usage such as fishing under the Crown Lands Act.⁷²⁰

7.136 The following sections examine the major access issues raised by participants during the Inquiry.

⁷¹⁷ Submission 1007, pp 17-18.

⁷¹⁸ Submission 1007, p 18.

⁷¹⁹ Mr Westaway, Evidence, 27 May 2010, p 53.

⁷²⁰ Submission 1007, Appendix 1, p 13.

Access to inland rivers across private property

7.137 For inquiry participants who were or represented inland fishers this was the primary management issue that they raised with the Committee. Their general view was that in terms of facilitating recreational fisher access to rivers, NSW should emulate the actions taken in other states and in New Zealand.

7.138 A number of submissions were critical of the closure and sale of old paper roads, crown reserves and leases which has resulted in reducing river access for many fishers. In evidence, Mr Schaerf said he was often involved in lodging objections to proposed sales:

...I have been involved in lodging objections on behalf of my society and the wider fishing public to the closure and sale of former public roads, old paper roads, Crown reserves and leases. It is a deplorable situation...I believe that we can coexist alongside landowners simply by acknowledging these old paper roads, which were established often as bush tracks by our forebears in the pioneering days, and retaining them.⁷²¹

7.139 Mr David Screen, President, Lakeside Fly Fishing Club described the current difficulty for many inland anglers. Mr Screen said that unless there was signage and a dedicated trail it was often difficult for anglers to determine where they should access rivers. Mr Screen said that his club encouraged anyone intending to go into the water but who was not familiar with the area to approach the landholder directly. He acknowledged that in many cases anglers were reliant upon the goodwill of local landholders.⁷²²

7.140 Mr Screen said that the lack of defined and dedicated access routes has led to problems and the acknowledged and understood the reluctance of property owners to allowing access across their properties:

...some of the problems of people going in and leaving gates opened or camping on people's property and leaving rubbish and material there. I do not blame property owners for not allowing people to go onto their property because I see this all the time when I am out and about, even in some of the most pristine areas of a national park. You walk for quite a while and then you come to a point where you see a campfire and five or six VB bottles and you think, "How could they have done this?"⁷²³

7.141 Mr Screen noted that continued restricted or difficult access impedes the potential economic benefit to these areas:

People such as shop owners and others with commercial interests in the area would benefit greatly by having the angling dollar a bit more reliably catered to in some of these regions.

Jindabyne, Cooma and Adaminaby—towns like that is down south in the Kosciuszko area—rely heavily on that. Skiing lasts only about four months of the year and outside of that you really only have boating on the waterways, local activities in terms of

⁷²¹ Mr Schaerf, Evidence, 27 April 2010, p 28.

⁷²² Mr David Screen, President, Lakeside Fly Fishing Club, Evidence, 19 April 2010, p 70.

⁷²³ Mr Screen, Evidence, 19 April 2010, p 71.

farmers and things like that, and tourism mainly through the angling dollar. They should see a benefit.⁷²⁴

- 7.142** What inland recreational fishers desire is clearly marked and defined access laneways to rivers. Inquiry participants drew the Committees attention to the situation in New Zealand, Victoria and Tasmania.⁷²⁵ Mr Screen described the situation in New Zealand as an example of the best that could be achieved:

Their processes seem to have been worked in full consultation with landholders, local council, government and their tourism departments. Access to rivers are clearly marked and defined. ...We have noticed in recent times that fisheries in Victoria, particularly around the Goulburn Valley area, the towns of Eildon, Thornton and Alexandra, have all started to adopt a similar policy. I know it has taken a long time to get where it has got, but they are now starting to signpost the rivers. Access is clearly marked.

One of the last attachments in that document shows some of the signage at some of these access points. It shows the fish species and areas where the Government has put money into doing riverside rehabilitation works in bank reconstruction and removing willows, and where you cannot access various private properties. I would like the Government here to consider having a look and examining some of the attempts to date by other governments—particularly New Zealand, which would be the highest level I think you could possibly achieve, and, maybe in terms of a more local content, what they have been doing in Victoria. To us it looks like very good work. They have a long way to go but in the years we have been fishing down there we have noticed each year that a little bit more work has been undertaken. It seems to be having a positive impact on the local communities and anglers in general.⁷²⁶

- 7.143** Mr Westaway acknowledged that the issue of access via Crown roads across private property is difficult and that there is room for NSW to improve its approach to improving public access to rivers:

The Department of Lands has extensive land holdings and Crown roads which are no longer used. And the Department of Lands has been very cooperative, and where there is an amenity or protection required they have declined to sell Crown roads. At the same time, that is a significant potential impact on a landholder, who will be open for a Crown road which is 80 years old in the books and goes straight past his house. So we had to take both those things into account. So it is a lot of hard work. In other States and countries such as New Zealand they have a very, very strong commitment to recreational fishing and bushwalking access to rivers and areas of importance. It is something that, in my opinion, we need to do much better here, to protect that amenity for the long-term future for our kids.⁷²⁷

- 7.144** Negotiating access across private property is a difficult and time consuming activity. Mr Schaerf suggested that under the current approach to dealing with access, more access

⁷²⁴ Mr Screen, Evidence, 19 April 2010, p 71.

⁷²⁵ Mr Schaerf, Evidence, 27 April 2010, p 28.

⁷²⁶ Mr Screen, Evidence, 19 April 2010, p 68.

⁷²⁷ Mr Westaway, Evidence, 27 May 2010, p 57.

officers are required as the workload is too great.⁷²⁸ In evidence, Mr Westaway indicated there was a constant demand for the services of his access officer.

Committee comment

- 7.145** The Committee contends that more needs to be done to improve public access to rivers in NSW. More focus and resources need to be directed to this area otherwise progress will be too slow. Recreational fishers see the need for an empowered body to take on this issue as one of its key priorities.
- 7.146** In the interim until such time that a different approach to dealing with access issues is developed, the current resources directed to this issue need to be enhanced. The Committee believes there is a need for an immediate increase in recreational fishing access officers.
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Recommendation 30

That Industry & Investment NSW fill the two vacant recreational fishing access officer positions.

Access through national parks

- 7.147** A number of inquiry participants voiced their frustration with the actions of the National Parks and Wildlife Service (NPWS) with respect to the maintenance and closure of access routes through national parks traditionally used by recreational fishers.
- 7.148** Mr Screen told the Committee that while in some circumstances it was easy to understand the decision by the NPWS to close an access track, in other cases there appeared to be no apparent reason:

But I do note that National Parks, to their credit, have started to get rid of a lot of the willows in that part of the area and that part of the stream, which I think is a great credit to them. They chip away every now and then and they do some good, besides locking up the tracks every now and then on us, but I think sometimes it is necessary, considering the state of some of the tracks and how they have been treated by some of the people using four-wheel drives in that area. So we support in part most of the things that they have done, and sometimes we cannot fathom why they have closed certain tracks for no apparent reason.⁷²⁹

- 7.149** In evidence Mr Castle raised the issue of the deterioration of the dirt access road to the Lake Mereroo recreational fishing haven, just south of Ulladulla. Mr Castle voiced the complaint that since NPWS took over management of the area from State Forests the access road has not been maintained.⁷³⁰
- 7.150** Mr Castle believed that the NPWS were not maintaining the road in a deliberate attempt to deter recreational fishers from using their vehicles to access this area of the fishing haven.

⁷²⁸ Mr Schaerf, Evidence, 27 April 2010, p 28.

⁷²⁹ Mr Screen, Evidence, 19 April 2010, p 75.

⁷³⁰ Mr Castle, Evidence, 3 September 2010, pp 56-57.

Mr Castle argued that if there was not a designated single route, then there was potential for greater environmental damage:

They want us to walk in but this particular lake is very healthy in terms of riparian vegetation. You can see from the top photo that that sort of vegetation exists all the way around the lake. We do not want to have a situation where fishoes walk in there and start trampling down grasses and seagrass areas and start making their own areas so they can cast a few fishing lines.⁷³¹

Committee comment

- 7.151** The National Parks and Wildlife Service need to remain cognisant of the need and right of recreational fishers to be provided with access to waterways, particularly recreational fishing havens. Decisions to close or not maintain traditional access routes need to take into account access for recreational fishers.

Access to impoundments (dams)

- 7.152** The matter of access to water supply storages causes frustration and confusion among the recreational fishing sector. The submission from the Council of Freshwater Anglers argued there was no rhyme or reason to the current situation:

In some regions anglers have unfettered access to such waterways, in others there is limited access and in others no access at all. The trouble with this is that there is no rhyme or reason for the various attitudes towards angler access...It should be noted that most of the excluded waterways are close to Sydney, while the ones with good access are further away.⁷³²

- 7.153** A number of participants argued that given water is treated prior to joining the drinking water system there is no valid reason for denying fishing access.⁷³³ Mr John Hughes described the situation in the Hunter Valley where the water that feeds into the Grahamstown Dam comes from what is described as an open and polluted catchment:

It has cows, animals and people with septic systems, and the water drains from that catchment into the river. The water is pumped out of that river and into Grahamstown Dam and it is then treated and sent to the public. Because the water is treated heavily, these types of waterways should be opened up more for recreational use.⁷³⁴

- 7.154** The Vice President of the NSW Council of Freshwater Anglers said his organisation had raised the issue of access to water storages with the Minister for Water, but was advised by the Minister to await the outcome and recommendations of this Inquiry. Mr Samuels believed the

⁷³¹ Mr Castle, Evidence, 3 September 2010, p 57.

⁷³² Submission 913, NSW Council of Freshwater Anglers Inc, p 3.

⁷³³ For example: Mr Samuels, Evidence, 30 August 2010, p 43.

⁷³⁴ Mr John Hughes, Public Officer, Junction Inn Fishing Club, Evidence, 4 May 2010, p 72.

reason why access was denied in more urbanised areas was because the authorities were reluctant to deal with what may be significant public perception management issues:

The problem is that these water authorities do not want to deal with managing people. That is the real issue. We hope they will get over their issues, come to the table and look at the many other waterways to the west, south and north of the State where anglers work in harmony with these people. To be honest, Sydney people are a bit precious. They should go to Broken Hill and see where their water comes from. If we can tout recycled sewage as drinking water we certainly have the technology to ensure it is not a health issue to have a few people fishing.⁷³⁵

7.155 Mr Castle submitted to the Committee that Prospect Reservoir is an under-utilised resource that could provide a fishing opportunity for many young persons from Sydney West:

Contained within the club's submission is a proposal to allow fishing access to Prospect Reservoir and an invitation to inspect the underutilised facility. We hope this proposal is favourably received. New South Wales DII is currently running a school program called, "Get Hooked," which is primarily funded by recreational fishers from the licence fee. Although 77 schools are involved in this program, no schools apart from Penrith are participating in or around Sydney's west, where Prospect Reservoir is located. These schools are disadvantaged. If Prospect was made accessible, this reservoir could be utilised and the school's program expanded.⁷³⁶

7.156 Mr Castle said he understood that if Prospect Reservoir was ever needed to augment the Sydney drinking water that it could only provide three day's supply. He argued that it was an historical piece of infrastructure that is unlikely to be called upon given other water management strategies such as desalination and water recycling.⁷³⁷

Committee comment

7.157 The Committee agrees there appears to be no reason why fishing is allowed in some water supply storages and not others. However it also acknowledges that the concerns of the public, whether unfounded or not, need to be addressed. The Committee agrees that Prospect Reservoir presents as an opportunity for people to become familiar with the concept of fishing within water storage impoundments.

Recommendation 31

That the Minister for Water consider the impacts of recreational fishing on water storage impoundments with a view to determining the types of fishing activities that could be permitted, in particular at the Prospect Reservoir on a trial basis.

⁷³⁵ Mr Samuels, Evidence, 30 August 2010, p 43.

⁷³⁶ Mr Castle, Evidence, 3 September 2010, p 56.

⁷³⁷ Mr Castle, Evidence, 3 September 2010, p 63.

Chapter 8 Indigenous fishing issues

This chapter examines the issues relating to Aboriginal cultural fishing in NSW, including the December 2009 amendments enacted in the *Fisheries Management Amendment Act 1994*, the impact of marine parks on traditional Aboriginal cultural practices and the experience of Aboriginal commercial fishers.

Fisheries Management Amendment Act 1994

8.1 In December 2009 the NSW Parliament passed the amended *Fisheries Management Amendment Act 1994* (herein known as the Act). The Act is designed to maintain and preserve fish stocks across the State by regulating commercial and recreational fishing with a system of offence provisions and penalties to enforce regulations.⁷³⁸

8.2 Prior to the December 2009 amendments the Act offered no clear definition of Aboriginal cultural fishing. As such, Aboriginal fishers were classified as either recreational fishers or commercial fishers. The regulatory system did have certain exemptions for Aboriginal fishers, including:

- No fee or license required if fishing in freshwater;
- No fee or license required if fish were taken in accordance with Native Title rights or interests, subject of an approved determination.⁷³⁹

8.3 Section 37 of the previous Act allowed Aboriginal people to engage in cultural fishing practices for larger scale, cultural events via a permit system.⁷⁴⁰ In its submission, the NSW Aboriginal Land Council (NSWALC) noted:

... it was widely acknowledged within Aboriginal communities that the section 37 process was problematic and often failed to meet the needs of communities, particularly in respect to timeframes associated with applying for a permit and the discretionary nature of the granting of permits.⁷⁴¹

8.4 The December 2009 amendments provided a number of important provisions for Aboriginal people. In the Fisheries Management Bill 2009 second reading speech, the Hon Tony Kelly, the then Minister for Primary Industries, acknowledged the importance of formally recognising Aboriginal peoples customary association with fishing:

The changes proposed in this bill mean that for the first time Aboriginal people's customary association with the fisheries resource is formally recognised in the Fisheries Management Act. In keeping with this new objective, the bill also amends the Act to allow permits to be issued specifically to enable Aboriginal people to fish or take marine vegetation for Aboriginal cultural fishing purposes. The bill will also allow

⁷³⁸ *LC Minutes (2/12/2009)* 20358.

⁷³⁹ Submission 1011, New South Wales Aboriginal Land Council, p 1.

⁷⁴⁰ Submission 1011, p 1.

⁷⁴¹ Submission 1011, pp 1-2.

permits for Aboriginal cultural fishing to be issued to a group, as well as to an individual. This will make it easier for communities to fish culturally—especially for large ceremonies such as birthdays and weddings—because more than one person will be able to fish under the one permit.⁷⁴²

- 8.5** The object of the Act now seeks to 'recognise the spiritual, social and customary significance to Aboriginal persons of fisheries resources and to protect, and promote the continuation of, Aboriginal cultural fishing.'⁷⁴³ Additionally, Aboriginal cultural fishing is defined in the Act as:

... fishing activities and practices carried out by Aboriginal persons for the purpose of satisfying their personal, domestic or communal needs, or for educational, ceremonial or other traditional purposes, and which do not have a commercial purpose.⁷⁴⁴

- 8.6** The NSWALC noted that in effect the definition deems that all Aboriginal people in NSW have a fishing permit and do not need to apply for a licence or pay a fee if they are fishing within the provisions and definitions of Aboriginal cultural fishing under the Act and its Regulations.⁷⁴⁵

- 8.7** The NSWALC told the Committee it is supportive of the amendments to the Act as they provide greater freedoms for Aboriginal fishers in NSW.⁷⁴⁶ The NSWALC said that it would like to see Aboriginal fishing rights further protected as enshrined in international declarations and national agreements:

Increasing Aboriginal fishing rights and ensuring Aboriginal people in NSW are included in the management of sea country is critical to ensuring Aboriginal cultures are sustained. Aboriginal peoples spiritual, social and customary relationship with the marine environment, and their continued tradition of fishing consistent with cultural beliefs which fundamentally includes customary sustainable fishing parameters, means including Aboriginal people in the management of sea country would be beneficial.⁷⁴⁷

- 8.8** Section 21 AA of the Act sets out the special provisions for Aboriginal cultural fishing. These provisions outline how the definition of Aboriginal culture fishing is applied. Section 21 AA states:

(1) An Aboriginal person is authorised to take or possess fish, despite section 17 or 18, if the fish are taken or possessed for the purpose of Aboriginal cultural fishing.

(2) The authority conferred by this section is subject to any regulations made under this section.

(3) The regulations may make provision for the management of Aboriginal cultural fishing as authorised by this section.

⁷⁴² *LC Minutes (2/12/2009)* 20358.

⁷⁴³ *Fisheries Management Amendment Act 1994*

⁷⁴⁴ *Fisheries Management Amendment Act 1994*

⁷⁴⁵ Submission 1011, p 3.

⁷⁴⁶ Answers to written questions on notice, 2 November 2010, Ms Bev Manton, Chairwoman, New South Wales Aboriginal Land Council, Question 1, p 2.

⁷⁴⁷ Answers to written questions on notice, Ms Manton, Question 4, p 6.

(4) Without limiting the above, the regulations may:

(a) prescribe the circumstances in which the taking or possession of fish by Aboriginal persons for the purpose of Aboriginal cultural fishing is authorised by this section, and

(b) specify restrictions as to the quantity of fish of a specified species or of a specified class that may be taken by or be in the possession of Aboriginal persons for the purposes of Aboriginal cultural fishing as authorised by this section.

(5) The Minister must not recommend the making of a regulation under this section unless an advisory council for the Aboriginal sector of the fishing industry has been established under section 229 and the Minister certifies that the advisory council has been consulted on the proposed regulation.

(6) A person does not commit an offence against section 17 or 18 in respect of the taking or possession of fish if the taking or possession of the fish is authorised under this section.

(7) This section does not prevent the issue of a permit under section 37 for Aboriginal cultural fishing purposes.

(8) This section does not authorise an Aboriginal person to do anything that is inconsistent with native title rights and interests under an approved determination of native title (within the meaning of the Native Title Act 1993 of the Commonwealth) or with the terms of an indigenous land use agreement (within the meaning of that Act).⁷⁴⁸

8.9 The Act provides for the establishment of the Aboriginal Fisheries Advisory Council (AFAC). The AFAC will be the peak advisory group advising the Minister on Aboriginal fishing issues. There will be fourteen appointees on the AFAC, thirteen of whom will have voting rights. The fourteen appointees will consist of:

- Aboriginal persons appointed to represent different regions of the State (not more than ten in total);
- one other Aboriginal person;
- one person appointed as a representative of Native Title Services Corporation Limited (NTSCORP);
- one person appointed as a representative of the NSWALC; and,
- a senior officer of the Department (non-voting).⁷⁴⁹

8.10 Participants at the Inquiry's round table discussion said they hoped that the establishment of the AFAC will lead to greater consultation with Aboriginal fishers, particularly as consultation between Indigenous groups and the government has not been strong enough in the past to resolve Aboriginal fishing issues.⁷⁵⁰ The NSWALC noted that while it was pleased that the

⁷⁴⁸ Section 21 AA, *Fisheries Management Amendment Act 2009*.

⁷⁴⁹ New South Wales Aboriginal Land Council, <[www.alc.org.au/newsroom/network-messages/aboriginal-fishing-advisory-council-\(2\).aspx](http://www.alc.org.au/newsroom/network-messages/aboriginal-fishing-advisory-council-(2).aspx)>, accessed 26 October 2010

⁷⁵⁰ Round table notes, Aboriginal representatives, Aboriginal Land Council, Mogo, 26 May 2010.

Government aims to establish the AFAC it does not support limiting consultation with Aboriginal people to Ministerial advisory groups.⁷⁵¹ The NSW argues that '... all Aboriginal people have a right to be consulted and provide free and informed consent.'⁷⁵²

8.11 Most provisions for Aboriginal cultural fishing will be provided within the Regulations of the Act. As of November 2010 the members of the AFAC had not been announced therefore the Regulations have not been considered and established.

8.12 In its *Fishing Fact Sheet 2 Interim Provisions for Aboriginal Fishers in NSW*, the NSWALC claim Industry & Investment NSW (I & I) has circulated an internal policy through Fisheries offices ensuring that 'the spirit of the cultural fishing amendments and the ensuing Regulations... are to be recognised.'⁷⁵³ The NSWALC summarised the most notable Interim Compliance provisions:

- where it is inappropriate for an elder, the incapacitated, or other community members to take part in an Aboriginal cultural fishing event, the individual limit of fish that can be taken further than the 20 metre high water mark has been increased to double that of the current recreational bag limit applicable to the individual who is actually fishing;
- if up to 15 Aboriginal people are participating in a cultural event within the 20 metre high water mark, the possession limit will be based on the number of people at the event not the number of people who are actually fishing. Also, the fish must be consumed in the area;
- Aboriginal people are still required to hold section 37 permits for larger cultural events (over 15 people). The permits provide defences against certain regulations.⁷⁵⁴

8.13 The Act does not operate in isolation, other government legislation and policy protects and promotes Aboriginal cultural fishing in NSW. I & I noted that

Nothing within the provisions of the FMA [the Act] or the regulations alters fishing rights awarded under Native Title determinations or recognised in Indigenous Land Use Agreements associated with claims. In fact under the FMA even the issuing of permits for Aboriginal cultural fishing are not allowed if to authorize the fishing activities and practices concerns would be inconsistent with native title rights and interests under the determination of native title.⁷⁵⁵

Problems identified with the Act

8.14 During the Inquiry it was put to the Committee that the recent amendments to the Act do not adequately protect the cultural fishing practices of Aboriginal communities. Mr Danny

⁷⁵¹ Answers to written questions on notice, Ms Manton, Question 2, pp 2-3.

⁷⁵² Answers to written questions on notice, Ms Manton, Question 2, p 3.

⁷⁵³ New South Wales Aboriginal Land Council, *Fishing Fact Sheet 2 Interim Provisions for Aboriginal Fishers NSW*, p 1.

⁷⁵⁴ *Fishing Fact Sheet 2 Interim Provisions for Aboriginal Fishers NSW*, pp 1-2.

⁷⁵⁵ Answers to written questions on notice, Mr Bryan van der Walt, Acting Manager, Recreational Fisheries Program, Industry & Investment NSW, 14 May 2010, Question 6, p 15.

Chapman, Community Person, explained that the problem with the Act was not in its content but rather in the way it was regulated:

They [the Government] have had an attempt but I am not too sure how serious that attempt was and I do not think it goes anywhere in protecting cultural fishing rights, and really it levels it to a meaningless exercise and does not extend it other than what the current bag limit is at the moment.⁷⁵⁶

8.15 Mr Chapman said that it is the regulations that will decide whether Aboriginal cultural fishing rights are to be protected, so at this stage there is still some uncertainty:

The cultural fishing rights Act ... goes a long way to protecting cultural fishing rights. I guess where the rubber hits the road in respect of that is how the Act has got to be regulated. The amendment to the Act creates a framework and then the amendments to the Act will outline the ways in which the cultural fishing activities will be governed. That takes into account bag limits, who can do it, where they can do it, and those sorts of issues. So in respect of whether it adequately protects cultural fishing rights and allows Aboriginal people to get fish on the basis of their family needs is really up in the air until such time as the regulations are able to demonstrate to Aboriginal people that they will be adequate to allow them to catch as much fish as will sustain their cultural practices.⁷⁵⁷

8.16 Mr Chapman was critical of the requirement within the interim regulations that requires Aboriginal people to eat their catch within 20 metres of the high watermark:

I mean cultural fishing has got to mean something. It cannot mean—I will give you an example of how the Government put in two regulations just recently as an interim measure of what they say is to protect cultural fishing rights. They say that a group of 20 Aboriginal people can go down to the water, two or three of them people can dive in the water and grab abalone and lobster and bring them out—they can catch 40 lobsters and 40 abalones—they must eat them down where they catch them.⁷⁵⁸

8.17 Similar issues were raised by participants at the Committee's round table discussions at the Aboriginal Land Council in Mogo. Round table participants discussed a number of issues with the current cultural fishing regulations, particularly that:

- while 20 people may be allowed to attend a large, cultural gathering only three can dive for lobster and abalone;
- Aboriginal people are required to shuck and eat their catch within 20 metres of their fishing spot and are therefore unable to take their catch home; and,
- Aboriginal people can only catch double the allowed bag limits.⁷⁵⁹

8.18 Mr Andrew Nye, an Aboriginal commercial fisher, reflected on his experience of catching fish for his family under the current regulations, saying that he faces a \$2,000 fine if he collects and takes home abalone for his family.⁷⁶⁰

⁷⁵⁶ Mr Danny Chapman, Community Person, 30 August 2010, p 67.

⁷⁵⁷ Mr Chapman, 30 August 2010, p 66.

⁷⁵⁸ Mr Chapman, 30 August 2010, p 67.

⁷⁵⁹ Round table notes, Aboriginal representatives.

⁷⁶⁰ Mr Andrew Nye, commercial fisher, Evidence, 30 August 2010, p 74.

- 8.19** Mr Thomas Butler, an Aboriginal commercial fisher, Nye Brothers Fishing Company, told the Committee that he was particularly frustrated by not being able to cook his catch on the beach because of council regulations.⁷⁶¹ This is an unfortunate paradox within the current regulations and demands that Aboriginal people eat their catch raw. Mr Butler also said that he could not take his catch above the high-tide mark thus elders had to sit in the wet sand and eat a meal.⁷⁶²
- 8.20** I & I told the Committee that it was aware of problems with the current provisions for Aboriginal cultural fishing practices as regulated by the Act, particularly in regards to people needing to eat their catch near the beach. Mr Peter Turnell, Director, Fisheries Resource Management, Industry & Investment NSW, advised that it was speaking to the NSWALC and NTSCORP about concerns with the current regulations:

That concern was brought to us recently and we are working through that at the moment and members from the New South Wales Aboriginal Land Council and Native Title Services Corporation have been speaking openly with them about this issue. We appreciate their concerns and they understand that we are trying to develop arrangements that allow that to occur without compromising the intent of cultural limits, if you like.⁷⁶³

Committee comment

- 8.21** The Committee commends the NSW Government for the December 2009 amendments to the *Fisheries Management Amendment Act 1994* that recognises the significance of Aboriginal cultural fishing. The Act clearly sets out the legislative framework for protecting and promoting the rights of Aboriginal fishers.
- 8.22** The Committee understands the concerns of inquiry participants about the provisions for Aboriginal cultural fishing that will be ultimately established under the Regulations of the Act. It is difficult for the Committee to make any specific recommendations concerning the Regulations as the AFAC has not yet met to consider them. It is expected that the Regulations will be in the spirit of the Act and allow Aboriginal people to carry out their traditional cultural practices. It is also hoped that the Regulations are practical.
- 8.23** The Committee recognises that the regulations need to be practical to allow the removal of the cultural catch outside the high tide zone, for preparation and consumption.

Marine parks

- 8.24** The Committee received evidence that Indigenous communities were frustrated by the creation and implementation of NSW marine parks. It appears that the NSW Government has recognised that there are a number of issues concerning Aboriginal people's participation in marine park activities and has established a course of action to rectify these problems.

⁷⁶¹ Mr Thomas Butler, Commercial fisher, Nye Brothers Fishing Company, Evidence, 30 August 2010, p 74.

⁷⁶² Mr Butler, Evidence, 30 August 2010, p 74.

⁷⁶³ Mr Peter Turnell, Director, Fisheries Resource Management, Industry & Investment NSW, Evidence, 3 September 2010, p 13.

- 8.25** Certain inquiry participants were eager to discuss Aboriginal peoples' access to marine parks for cultural fishing purposes. The NSWALC claims it has anecdotal evidence that '... Aboriginal communities have been restricted from carrying out Aboriginal cultural fishing practices in areas within NSW marine parks which hold cultural and traditional values.'⁷⁶⁴ For example, it was reported that the Worimi community who traditionally fish in the Port Stephens – Great Lakes Marine Park have faced difficulties accessing traditional food sources:

The Worimi community traditionally fish with handheld nets. However the Marine Park prevents Aboriginal community members from fishing with nets above the 'New Bridge' without a permit, which excludes many of the traditional Worimi fishing grounds and means that the community is forced to fish within a limited space with limited food sources.⁷⁶⁵

- 8.26** The NSWALC continued:

There are a number of Worimi traditional fishing grounds which are now classified as 'sanctuary zones' within the 'Port Stephens - Great Lakes Marine Park'. The Aboriginal community is no longer able to fish near 'Flat Rock' of the Karuah River, on the bar near Little Branch, the island off Lime Burners Creek, or above Allsworth where the salt water meets the fresh water. Generations of Aboriginal people have traditionally fished sustainably in these areas, but can no longer do so because of the Marine Park restrictions.⁷⁶⁶

- 8.27** The NSWALC also said that the permit process is onerous and people are reluctant to apply for one.⁷⁶⁷ The poorly executed permit system has resulted in Aboriginal people being unduly restricted from traditional cultural practices.

- 8.28** Additionally, the NSWALC was critical of the existing laws and policies referring to cultural fishing in marine parks, noting that they are extremely complex and need to be simplified. The NSWALC recommended the adoption of 'a clear single policy for all marine parks in NSW to allow Aboriginal cultural fishing free of a permit system, with certain limits.'⁷⁶⁸

- 8.29** Certain Aboriginal community representatives were disappointed in the NSW Government's attempt to include traditional owners in the planning and establishment of marine parks. Mr Chapman told the Committee that he was displeased by various aspects of the NSW Government's consultation processes in respect to marine parks, particularly with the apparent lack of initial consultation and consideration of Native Title issues:

I was not pleased with the consultation in respect of the marine park and I say that in two ways. One is coming out and talking to Aboriginal people about the likely effects on the marine parks as they were being implemented and what effects there were

⁷⁶⁴ Submission 1011, pp 3-4.

⁷⁶⁵ Answers to written questions on notice, Ms Manton, Question 3, p 3.

⁷⁶⁶ Answers to written questions on notice, Ms Manton, Question 3, p 4.

⁷⁶⁷ Answers to written questions on notice, Ms Manton, Question 3, p 3.

⁷⁶⁸ Answers to written questions on notice, Ms Manton, Question 3, p 5.

going to be after they were implemented, and I was not too pleased about the fact that they did not treat the creation of the national park as a future act as determined by the Commonwealth Native Title Act, which gives certain procedural rights to native title holders or potential native title holders...⁷⁶⁹

8.30 The round table participants informed the Committee of a number of issues specific to the Batemans Marine Park, many of which were similar to general recreational fishers complaints:

- the marine park authority did not conduct enough consultation during the initial zoning plans;
- there are inappropriate access restrictions to Wallaga Lake;
- the marine park impinges on Native Title claims;
- the local Aboriginal communities should manage 'sea country' but cannot because of the marine park;
- the marine park has taken lots of resources but offers little in return, for example there a few opportunities for the employment of Aboriginal people; and,
- Sanctuary Zones lock up all of the good fishing spots.⁷⁷⁰

8.31 The round table participants suggested that these issues could be overcome by establishing an Aboriginal management group to oversee access to Wallaga Lake and by creating and implementing legislation to protect Native Title claims inside marine parks.⁷⁷¹

8.32 The Committee heard that Native Title considerations for marine environments are considered differently from those involving terrestrial areas. Mr Michael Wright, Director, Protected Areas Policy and Programs, Department of Environment, Climate Change and Water, explained it is difficult to substantiate native title claims over marine environments:

The fundamental reason that [Native Title] does not occur is that the legal advice that the Government has suggests that native title in marine waters is unlikely to be able to be substantiated, whereas on land it is able to be substantiated if it has not been extinguished through a past act.⁷⁷²

8.33 As mentioned, the round table participants were disappointed that there were few employment opportunities for Aboriginal people within marine parks. The Committee was told that the community initially anticipated that the Batemans Marine Park Authority would offer three permanent positions to Aboriginal people.⁷⁷³ It was therefore disappointing that only one position was created. It is alleged that the community was told that there are insufficient funds to support Aboriginal positions because money is needed to support further research in the marine park.⁷⁷⁴

⁷⁶⁹ Mr Chapman, Evidence, 30 August 2010, p 67.

⁷⁷⁰ Round table notes, Aboriginal representatives.

⁷⁷¹ Round table notes, Aboriginal representatives.

⁷⁷² Mr Michael Wright, Director, Protected Areas Policy and Programs, Department of Environment, Climate Change and Water, Evidence, 3 September 2010, p 15.

⁷⁷³ Round table notes, Aboriginal representatives.

⁷⁷⁴ Round table notes, Aboriginal representatives.

8.34 The Committee was advised that the NSW Government recognised the importance of engaging with Indigenous communities on marine park issues. The NSW Government emphasised that Aboriginal communities enjoy ongoing guardianship of 'Country' and thus should be involved in the establishment and management of marine parks through a range of consultative methods:

The Marine Parks Authority recognises that the Aboriginal people of NSW have a continuing custodial relationship with 'Country', the land and sea and its resources. This extends to maintaining spiritual links to and caring for Country. The involvement of Aboriginal people in the zoning and management of marine parks is encouraged through representation on marine park advisory committees, local Aboriginal Advisory Groups, and through the establishment of memoranda of understanding with Aboriginal communities.⁷⁷⁵

8.35 There were some concerns about the effectiveness of Aboriginal representation in formal consultation processes such as local marine park advisory committees. The NSWALC noted that it is critical to have Aboriginal representation on marine park advisory committees:

Representing Aboriginal interests on Marine Park Advisory Committees is important and necessary. However I understand that while Marine Parks generally seek to have Aboriginal representation on Marine Park Advisory Committees, it is not uncommon for Aboriginal interests to be underrepresented on the committees and therefore Aboriginal interests are often excluded or overlooked.⁷⁷⁶

8.36 Another issue brought to the Committee's attention is that ideally Indigenous representatives need to be elders who feel that they can speak on behalf of country and other Aborigines.⁷⁷⁷ Also complicating the consultation process is that often there are several Aboriginal communities within the jurisdiction of a marine park.⁷⁷⁸

8.37 The NSW Government explained that it often has problems selecting and retaining Aboriginal representatives for committees because European-type consultation processes are often not the best way to engage Indigenous communities.⁷⁷⁹ For example, the Committee heard that the Batemans Marine Park Advisory Committee has to be able to fill the two positions of its former Aboriginal representatives.⁷⁸⁰

8.38 In an effort to rectify this situation the NSW Government has arrangements to ensure it can engage with Aboriginal communities in less formal and more culturally appropriate settings. For example, during the preliminary drafting of the Solitary Islands Marine Park the marine

⁷⁷⁵ Answers to written questions on notice, 18 May 2010, Mr Michael Wright, Director, Protected Areas Policy and Programs, Department of Environment, Climate Change and Water, Question 6, p 7.

⁷⁷⁶ Answers to questions on notice, Ms Manton, Question 5, p 6.

⁷⁷⁷ Mr Wright, Evidence, 3 September 2010, p 16.

⁷⁷⁸ Mr Adrian Toovey, Manager, Aquatic Protected Areas, Department of Environment, Climate Change and Water, Evidence, 3 September 2010, p 16.

⁷⁷⁹ Mr Wright, Evidence, 3 September 2010, p 16.

⁷⁸⁰ Mr Chapman, Evidence, 30 August 2010, p 75.

park manager informally established a consultation group with local elders to ensure there was an inclusive process and that their input could be recognised.⁷⁸¹

8.39 Other marine parks have undertaken similar initiatives. The Batemans Marine Park Advisory Committee currently does not have any Aboriginal representatives however it has created an informal Aboriginal advisory group that meets regularly. The Aboriginal advisory group contains members from all the Lands Councils adjacent to the marine park.⁷⁸² Dr Brendan Kelaher, Manager, Batemans Marine Park, explained that the idea of Aboriginal representation on the advisory committee is often discussed at Aboriginal advisory group meetings however the positions remain unfilled:

... we constantly bringing up with the Aboriginal Advisory Group the opportunity for this position to be filled, and it is a difficult thing. Often eyes are cast down because it is quite a difficult position because that person is actually representing a range of communities of traditional owners.⁷⁸³

8.40 There was discussion about whether there is a need to have Aboriginal individuals employed by each marine park authority. Mr Timothy Shepherd, Regional Manager, Far South Coast National Parks and Wildlife Service, Department of Environment, Climate Change and Water, told the Committee that he was very supportive of engaging Aboriginal staff, however there had been problems filling the Aboriginal liaison officer role available within the Batemans Marine Park Authority:

There have been some issues with filling the position but I think it is particularly important that we continue to engage with the Aboriginal community. We may look at different ways. Ideally I would like to see people coming into the marine park structure and receiving training and some career development. But the principle of keeping an Aboriginal staff member is something I am strongly supportive of.⁷⁸⁴

8.41 Mr Shepherd continued that he intends to make the current fulltime Aboriginal Liaison Officer role within the Batemans Marine Park an ongoing position.⁷⁸⁵

8.42 The Cape Byron Marine Park informed the Committee that it has put in place a number of training initiatives within local Aboriginal communities. Mr Andrew Page, Marine Park Manger, Department of Environment, Climate Change and Water, said:

The Marine Parks Authority has worked closely with the Bundjalung Arakwal people of Byron Bay since the marine park was declared in 2002 to provide training and development opportunities for local Aboriginal people in marine park management

⁷⁸¹ Mr Paul O'Connor, Principal Director, Fisheries and Compliance, Industry and Investment NSW, Evidence, 3 September, p 16.

⁷⁸² Dr Brendan Kelaher, Manager, Batemans Marine Park, Evidence, 26 May 2010, p 13.

⁷⁸³ Dr Kelaher, Evidence, 26 May 2010, p 13.

⁷⁸⁴ Mr Timothy Shepherd, Regional Manager, Far South Coast National Parks and Wildlife Service, Department of Environment, Climate Change and Water, Evidence, 26 May 2010, p 6.

⁷⁸⁵ Mr Shepherd, Evidence, 26 May 2010, pp 5-6.

and activities such as vessel operations and scuba diving. Some members of the Arakwal community have subsequently used this training and experience gained while working for the Authority to gain employment with local scuba diving companies.⁷⁸⁶

- 8.43** Mr Page advised that the former Aboriginal cadet marine ranger at the Cape Byron Marine Park has graduated on to become a permanent employee:

In 2006, the first Aboriginal cadet marine ranger in the State commenced work at Cape Byron Marine Park. Three years later, after successfully completing his cadetship, which included tertiary studies, he is employed on a permanent basis as a marine ranger at Cape Byron Marine Park.⁷⁸⁷

- 8.44** Some marine parks have special purpose zones that allow indigenous communities to partake in cultural fishing activities. Aboriginal cultural fishing can take place on Arrawarra Headland in the Solitary Islands marine Park; Tallow Creek and Belongil Creek in Cape Byron Marine Park; and Snake Island in the Batemans Marine Park.⁷⁸⁸ These provisions are made through the Marine Park (Zoning Plans) Regulation (1999).

- 8.45** The Government advised the Committee that the Marine Park Authority is finalising a cultural resource use policy. The *Aboriginal Engagement and Cultural Use of Fisheries Resources in NSW Marine Parks* policy establishes a framework that encourages engagement with Aboriginal communities to facilitate cultural use of marine parks, including extraction of marine resource for cultural purposes.⁷⁸⁹

Committee comment

- 8.46** The Committee notes that there are a number of issues with the planning and establishment of NSW marine parks that have frustrated Aboriginal people. The discontent with formal consultation processes has discouraged Indigenous groups from fully engaging with the NSW Government.
- 8.47** The Committee is concerned by anecdotal reports that cultural fishing practices have been restricted because of NSW marine parks. It is hoped that the marine park authorities can work with local indigenous communities to ensure that cultural fishing practices continue in traditional fishing areas.
- 8.48** The Committee acknowledges that the NSW Government has put in place a number of mechanisms, including informal consultation processes and its cultural resource use policy, in an effort to rectify ongoing problems with indigenous engagement. While the Committee would like to see greater Aboriginal representation on marine park advisory committees, the examples of the Batemans and Solitary Islands informal Aboriginal advisory groups should be encouraged across all marine park jurisdictions.

⁷⁸⁶ Mr Andrew Page, Marine Park Manger, Department of Environment, Climate Change and Water, Evidence, 15 June 2010, p 47.

⁷⁸⁷ Mr Page, Evidence, 15 June 2010, pp 47-48.

⁷⁸⁸ Answers to written questions on notice, 18 May 2010, Mr Wright, Question 6, p 7.

⁷⁸⁹ Answers to written questions on notice, 18 May 2010, Mr Wright, Question 6, p 8.

Commercial fishing practices

8.49 The Committee heard that there are a number of issues with the general regulation of commercial fishing practices that have a marked impact on Aboriginal people primarily, the use of traditional practices such as commercial beach hauling and the issuing of commercial licences.

8.50 Inquiry participants were keen to impress upon the Committee their belief that Aboriginal commercial fishing practices should be considered and regulated under the Act as cultural fishing. Mr Nye stated:

...fisheries...have cut it up into two, like traditional and commercial. We are sort of neither one, we are cultural. We are in the middle, so it is not traditional fishing and it is not commercial fishing, it is cultural fishing. We should be allowed to go and get whatever we need really, in a fair amount, without being prosecuted and the family should be able to help...⁷⁹⁰

8.51 Aboriginal commercial fishers were upset that increasing regulation was impinging on their ability to fish using traditional practices. Mr Chapman encapsulated the frustration of Aboriginal commercial fishers:

... Way back when our grandfathers were fishing, they would fish without any regulations. They would beach haul, they would go out and dive for abalone, they would dive for lobsters. It was a circular approach in respect of when different sorts of species were available and plentiful. They would go away, so it was pretty much a circular way. Then in around about 1985 Fisheries started to regulate the industry fairly heavily. They are regulating an Aboriginal way how to fish and they are trying to fit that regime into a more commercial concept.⁷⁹¹

8.52 The NSWALC referred to a number of issues dealing with Aboriginal involvement in commercial fishing enterprises. The NSWALC told the Committee that during joint negotiations on the amendments to the Act it, along with NTSCORP, had provided the Minister for Primary Industries and I & I with preliminary advice on possible options for consideration for Aboriginal interests to be included in the commercial sector, including:

- Restructure commercial fee arrangements including exemption from the community contribution levy and annual fees (for a restricted period),
- Relaxation of family cultural fishing on commercial boats,
- Review of commercial fishing licenses with a view of incorporating family and/or community succession planning,
- Resumed or surrendered commercial licenses to be granted to Aboriginal commercial fishing sector, rather than being put to tender,
- Portion of the commercial fees raised could be used to purchase existing licenses for Aboriginal commercial fishing sector,

⁷⁹⁰ Mr Nye, Evidence, 30 August 2010, p 68.

⁷⁹¹ Mr Chapman, Evidence, 30 August 2010, p 71.

- Investment in TAFE / education to specifically advance Aboriginal people in obtaining qualifications required for commercial fishing sector, and
- Exemptions from section 49 prohibition which prevent Aboriginal people from holding commercial fisheries licences.⁷⁹²

8.53 Certain inquiry participants expressed frustration at the regulations regarding commercial beach hauling. Round table participants argued that commercial beach hauling is considered one of the 'cleanest' commercial techniques because it results in very little by-product.⁷⁹³ Additionally, a number of Aboriginal people still engage in traditional hauling practices, such as using a net and rowboat.⁷⁹⁴ The Committee was told that the only different practices from past generations were the use of 4WDs and the need for commercial fishing licences.⁷⁹⁵

8.54 An important cultural issue for Aboriginal fishers is having the assistance of family and community members when hauling their nets. Under current regulations this cannot occur because only individuals issued with a licence can handle the nets.⁷⁹⁶ Mr Nye told the Committee of his frustration with this regulation:

Tommy and Danny, my brother-in-law, we go and catch a fish. If they walk down there, they can stand there and watch me struggling, or me and my son struggling with the net and with the fish, but if he picks one fish up out of the net or he gets a bit of weed out of the net or he grabs hold of the net or he grabs the basket out of the back of the truck or he drives my truck on the beach, he can be prosecuted—and you can be fined up to \$22,000 for the first offence. To me, that is wrong.⁷⁹⁷

8.55 Mr Nye was concerned that because of these restrictions he would not be able to pass down these fishing practices to his family and his traditions would be lost in one generation.⁷⁹⁸ The loss of traditional hauling practices could potentially have a devastating impact on the local Indigenous communities.

8.56 Inquiry participants also discussed the purchasing of commercial fishing licences, as opposed to the traditional practice of passing the licences down through generations. Mr Chapman suggested that 'the way in which the fisheries are set up the licensing regime does not go anywhere near to suiting what our [Aboriginal commercial] fishing enterprise was and is now.'⁷⁹⁹ For example, a participant in the round table discussion explained that his family's fishing business had been passed down through generations and he considered himself to be the caretaker rather than owner of the licence.⁸⁰⁰

⁷⁹² Answers to written questions on notice, Ms Manton, Question 8, p 8.

⁷⁹³ Round table notes, Aboriginal representatives.

⁷⁹⁴ Round table notes, Aboriginal representatives.

⁷⁹⁵ Round table notes, Aboriginal representatives.

⁷⁹⁶ Round table notes, Aboriginal representatives.

⁷⁹⁷ Mr Nye, Evidence, 30 August 2010, p 69.

⁷⁹⁸ Mr Nye, Evidence, 30 August 2010, p 70.

⁷⁹⁹ Mr Chapman, Evidence, 30 August 2010, p 71.

⁸⁰⁰ Round table notes, Aboriginal representatives.

8.57 Mr Nye shared a recent family experience of the incongruence between traditional practices and current regulations:

There was one incident down home earlier this year, in March I think. My cousin had passed away and his licence was never to be sold because it has always been handed down through the family and he had been gone for six years and in his will everything was left to me and his brother William, who was my cousin, died I think about 12 or 13 days after David. In the will everything was to come to me, but I never got to see that will and I did not know anything about it until just recently, last year, so I had to go and buy that. Even though in the will it said everything was to be left to me, like boats, nets, licences and so on—everything—because six years had lapsed, it had been over three years, I had to go and buy it.⁸⁰¹

8.58 Also, Mr Nye was concerned that the expense associated with buying and maintaining a commercial fishing licence was forcing his family out of the industry after five generations.⁸⁰²

8.59 During the Committee's round table discussion there was some debate about the viability of aquaculture projects to supplement the income of Aboriginal cultural fishers. Round table participants said that reef areas around the Batemans Marine Park were suitable for aquaculture ventures such as abalone farms.⁸⁰³ Also, there had been Fisheries sponsored overseas study tours looking into abalone farming but as yet there are no such projects in NSW.⁸⁰⁴

8.60 Inquiry participants proposed a number of recommendations to better support Aboriginal commercial fishing. One suggestion was that the NSW Government should consider Aboriginal commercial fishing in the same way it approaches Aboriginal recreational fishing under the Act. Mr Chapman explained how this stance would promote the interests of Aboriginal commercial fishers:

How the fisheries management bill is set up and structured it is an ownership. So you have actually got a right to go and fish. That is not the concept that these guys and us knew about or wanted to be in there, but we find ourselves in there now to the point where we were forced to identify a skipper. He died and that licence is not handed down in a family way—which we were able to distribute in amongst the families. The way it is all structured now does not meet the needs of our cultural way.⁸⁰⁵

8.61 The round table participants requested that commercial beach hauling be permitted throughout the year and that unlicensed individuals be allowed to assist with this task.⁸⁰⁶ It was argued that recreational fishers would accept these changes and they would allow traditional commercial practices to be passed onto future generations.⁸⁰⁷

⁸⁰¹ Mr Nye, Evidence, 30 August 2010, p 70.

⁸⁰² Mr Nye, Evidence, 30 August 2010, p 69.

⁸⁰³ Round table notes, Aboriginal representatives.

⁸⁰⁴ Round table notes, Aboriginal representatives.

⁸⁰⁵ Mr Chapman, Evidence, 30 August 2010, p 71.

⁸⁰⁶ Round table notes, Aboriginal representatives.

⁸⁰⁷ Round table notes, Aboriginal representatives.

- 8.62** Mr Nye suggested that Aboriginal commercial fishers should be able to access half of the abalone and lobster endorsements in the State to ensure people have access to traditional food sources:

I think if the Fisheries can allocate the abalone divers an extra 4 to 5 ton of abalone a year, they could give the Aboriginal community or Aboriginal fishermen half of that so that they can do the right thing instead of being caught by Fisheries and being fined \$10,000, \$15,000, \$20,000 for getting your traditional food. They should look at it and issue us with a lobster endorsement. We used to catch lobsters and we missed out by 17 kilo of meeting the criteria for the lobsters.⁸⁰⁸

- 8.63** There was also some debate about the allocation of skipper licences to commercial fishers. Mr Butler informed the Committee that under current regulations all boats must have skippers who are licenced appropriately.⁸⁰⁹ Mr Nye noted that this can lead to commercial fishers being unproductive, particularly on days when the skipper is too ill to fish.⁸¹⁰

- 8.64** I & I advised the Committee that it was aware of issues concerning Aboriginal commercial fishing. Mr Turnell said that funding for a study into Aboriginal commercial fishing had recently be secured and would examine important issues of traditional practices:

There are a couple of things happening at the moment with respect to Aboriginal commercial fishing in particular. There has been a research program approved for funding that will look at the suite of rules that currently apply and how they affect traditional Aboriginal commercial fishing operations and also look at establishing different and more flexible arrangements for Aboriginal fishers to participate in commercial fishing. Commercial fishing is an attractive form of employment for a lot of Aboriginal people and we are looking at opportunities to expand those roles and make them fit in better with traditional Aboriginal culture.⁸¹¹

- 8.65** Mr Turnell acknowledged that the individual nature of commercial fishing licences does not fit well with Aboriginal communities, saying:

One of the fishing controls we have from a commercial perspective is limiting the number of crew that can be used, depending on what fishery you are operating in. It might be that if a particular individual is the holder of that licence, that does not mean they can automatically pass it to someone else if they are ill or unable to fish. That does not sit well with the way the Aboriginal communities have traditionally operated as part of the family operation.⁸¹²

- 8.66** The NSW Government, with the support of the NSWALC and NTSCORP, is also implementing a number of other initiatives to ensure Aboriginal people continue to stay in the

⁸⁰⁸ Mr Nye, Evidence, 30 August 2010, p 73.

⁸⁰⁹ Mr Butler, Evidence, 30 August 2010, p 72.

⁸¹⁰ Mr Butler, Evidence, 30 August 2010, p 72.

⁸¹¹ Mr Peter Turnell, Director, Fisheries Resource Management, Industry & Investment NSW, Evidence, 19 April 2010, p 19.

⁸¹² Mr Turnell, Evidence, 3 September 2010, p 13.

commercial fishing industry. On 1 June 2010, the Hon Steve Whan, Minister for Primary Industries publically announced that these projects included:

- Reducing red tape to create avenues for the continued development and participation of Aboriginal people in commercial fisheries;
- Introduction of traineeships or training permits;
- Forming an Aboriginal Fishing Trust to provide funding for worthwhile Aboriginal fishing ventures;
- Building industry capacity through mentoring and training to develop business skills and build business partnerships and;
- Supporting and assisting external projects that seek to develop strategies to maintain and build involvement of Aboriginal people in the NSW commercial fishing sector.⁸¹³

Committee comment

8.67 The Committee acknowledges that there are number of issues with the current Aboriginal commercial fishing. It was disappointing to hear that traditional commercial beach hauling practices were being undermined by the stringent application of licensing regulations. Additionally, the Committee is concerned that the practice of passing down licenses through generations can no longer occur. The Committee recommends that I & I investigate a block licencing system for Aboriginal commercial fishers that will allow their family and community members to assist in beach hauling.

Recommendation 32

That Industry & Investment NSW investigate a block licensing system for Aboriginal commercial fishers that will allow their family and community members to assist in beach hauling.

Recommendation 33

That Industry & Investment NSW should also investigate the suitability of the licensing system to be inherited by a family member along traditional lines without the family members having to apply for a new licence. These licences should be issued with comparative rights for the member inheriting the licence

8.68 The Committee notes that the Marine Park Authority and I & I have put in place a number of initiatives to assist Aboriginal people to stay in the commercial fishing industry, including research into incorporating traditional practices into current regulations. The Committee commends the intent of the NSW Government action and hopes that these projects will meet the needs of Aboriginal commercial fishers.

⁸¹³ Hon S Whan, Minister for Primary Industries, 'Plans to keep Aboriginal fishers in the commercial industry', *Media Release*, 1 June 2010.

Chapter 9 Spearfishing

Spearfishing is pursued by a relatively small but passionate sector of the recreational fishing community. Spearfishers believe they face a number of obstacles when undertaking their fishing. This chapter examines issues specific to spearfishing including the community's perception of the method, its environmental impact, spearfisher representation on government advisory boards and access to government initiatives.

What is spearfishing?

- 9.1** Spearfishing is the practice of free diving while using a spear to target selected fish species. There are two types of spearfishing, shore-based and offshore diving. Spearfishing comprises approximately 1 per cent of all fishing effort in NSW.⁸¹⁴ Spearfishers are required to purchase a Recreational Fishing Licence and abide by NSW saltwater bag and size limits.
- 9.2** Spearfishing representatives emphasised that their fishing method requires a great deal of skill. Spearfishers referred to themselves as hunters and were proud of their ability to sight and select their prey. It was also noted that spearfishers often face a range of physical and environmental constraints. For example, most spearfishers have natural diving limitations of 10-20 metres and can be hindered by currents, poor water visibility, sea swell, sea temperature, wind and other marine hazards.⁸¹⁵
- 9.3** Spearfishers are prohibited from using SCUBA equipment. Mr Mel Brown, spearfisher, explained that the Underwater Skindivers and Fishermen's Association (USFA) campaigned against the use of compressed air apparatus as the equipment allowed spearfishers to stay underwater longer, thus catch more fish and place increased pressure on fish stocks.⁸¹⁶

Underwater Skindivers and Fishermen's Association

- 9.4** The USFA is considered to be the peak body for spearfishing in NSW. In their evidence to the Committee, USFA representatives explained that the association encourages the development, promotion and protection of spearfishing as an ecologically sustainable method of fishing.⁸¹⁷ The Association is aligned with the Australian Underwater Federation, the national governing body for underwater sports.
- 9.5** The USFA is comprised of associated clubs and individuals and has over 500 members and clubs.⁸¹⁸ Estimates of the number of recreational spearfishers in the State range from 2,000-10,000.⁸¹⁹

⁸¹⁴ Answers to written questions taken on notice, Mr Peter Saunders, President, Underwater Skindivers & Fishermen's Association, 28 May 2010, Question 2, p 2 citing Henry GW and Wild J., (2003) National Recreational and Indigenous Fishing Survey: FRDM Program 99/158.

⁸¹⁵ Submission 920, USFA, p 2.

⁸¹⁶ Mr Mel Brown, spearfisher, Evidence, 29 April 2010, p 40.

⁸¹⁷ Mr Peter Saunders, President, Underwater Skindivers & Fishermen's Association, Evidence, 27 April 2010, p 30.

⁸¹⁸ Mr Saunders, Evidence, 27 April 2010, p 36.

- 9.6** The *Guide to Spearfishing in New South Wales* was published by the Association in 2008. The handbook provides a reference for safe, legal and enjoyable diving, encourages responsible spearfishing practices and the protection of marine environments.⁸²⁰ The guide establishes a code of conduct for all USFA members, including respect for NSW fisheries regulations.
- 9.7** The USFA has been instrumental in the development of key recreational fishing regulations. Most notably it campaigned for the initial protections afforded to grey nurse sharks (grey nurse sharks further examined in Chapter 3).⁸²¹ The Association was the first organisation to implement bag and size limits on fish. The Committee was told these regulations are more conservative than those imposed by Industry & Investment NSW (I & I).⁸²² Other significant self-regulatory measures include protection of the girella cyanea (blue fish), estuary cod and eastern blue devil fish.⁸²³
- 9.8** The USFA has developed an accreditation system for its members. The accreditation system promotes sustainable and safe spearfishing. The USFA maintains that the accreditation system is a significant demonstration of its ability to self-regulate the activity. The key features of the proposed accreditation system are that:
- it provides a framework that binds the relevant state and national maritime and fisheries regulations;
 - divers must initially subscribe to USFA membership; and,
 - divers need to pass examinations and remain free of any legal action regarding recreational fishing.⁸²⁴
- 9.9** The system demands that individuals who are learning to spearfish abide by USFA standards, including their code of conduct and bag and size limits. Also, it was thought that appropriately accredited spearfishers should be able to dive in otherwise restricted areas.⁸²⁵
- 9.10** The USFA is proposing that the Government recognise its accreditation system. Mr Adrian Wayne, Vice-President, Underwater Skindivers and Fishermen's Association and delegate of Advisory Council on Recreational Fishing, argued that such action would encourage a more consistent approach to the training of spearfishers and allow the USFA and the Government to better disseminate pertinent spearfishing information.⁸²⁶

⁸¹⁹ Mr Adrian Wayne, Vice-President, Underwater Skindivers and Fishermen's Association, and delegate, Advisory Committee on Recreational Fishing, Evidence, 3 September, p 50 and Mr Saunders, Evidence, 27 April 2010, p 36.

⁸²⁰ Tabled document, Mr Peter Saunders, President, Underwater Skindivers and Fishermen's Association, *The Guide to Spearfishing in New South Wales*, 2008, p 4.

⁸²¹ Mr Brown, Evidence, 29 April 2010, p 40.

⁸²² Submission No. 920, p 2.

⁸²³ Answers to questions taken on notice during evidence, Mr Peter Saunders, President, Underwater Skindivers & Fishermen's Association, 27 April 2010, Question 1, p 8.

⁸²⁴ Answers to written questions on notice, Mr Saunders, 28 May 2010, Question 3, p 3.

⁸²⁵ Answers to written questions on notice, Mr Saunders, 28 May 2010, Question 6, p 7.

⁸²⁶ Submission No. 800, Mr Adrian Wayne, p 5.

9.11 Throughout the Inquiry, representatives of the USFA argued that their organisation should be considered a governing authority, and therefore should be consulted on all decisions impacting on spearfishing across the State. Mr Wayne stated that that the USFA would like its representatives be nominated to all fisheries management bodies including:

- The Marine Park Authority
- Existing Marine Parks
- Future Marine Parks
- All shark and Ray protection
- All lobster and abalone protection
- All fish size or bag limits reference groups
- NSW licence fees advisory committee
- Any national enquiries where state input is required
- Any committee or group appointed to provide advice on any fishery, where Spearfishing may be affected
- Advisory bodies for the creation of artificial reefs, aggregations.⁸²⁷

9.12 The USFA was strongly of the view that only its members be appointed to trusts and advisory boards.⁸²⁸ Mr Oliver Wady, Executive Committee Member, Underwater Skindivers and Fishermen's Association explained that the USFA would be best suited to offer representatives informed opinions about fisheries management.⁸²⁹

9.13 The USFA conducts a number of spearfishing competitions throughout the year. The Committee was informed that participants in these competitions must abide by a strict set of rules that promote sustainable fishing.⁸³⁰ The USFA noted that it had been collecting and monitoring data from its competitions for over 60 years.⁸³¹ Mr Peter Saunders, President, Underwater Skindivers & Fishermen's Association, told the Committee that the Association promotes different bag and size limits for fish depending on where they are found and that spearfishers diligently record information about their catch on scoresheets during competitions.⁸³²

Committee comment

9.14 The Committee commends the work of the USFA and recognises its representatives' dedication to spearfishing. The Association has proven to be willing to negotiate with the

⁸²⁷ Submission No. 800, pp 3-4.

⁸²⁸ Mr Saunders, Evidence, 27 April 2010, p 39.

⁸²⁹ Mr Oliver Wady, Executive Committee Member, Underwater Skindivers and Fishermen's Association, Evidence, 27 April 2010, p 39.

⁸³⁰ Answers to written questions on notice, Mr Adrian Wayne, Vice-President, Underwater Skindivers and Fishermen's Association and delegate, Advisory Committee on Recreational Fishing, 1 October 2010, Question 4, p 2.

⁸³¹ Answers to written questions taken on notice, Mr Wayne, 1 October 2010, Question 2, p 2.

⁸³² Mr Saunders, Evidence, 27 April 2010, p 38.

NSW Government and has enacted a range of environmentally-sound policies and procedures for its members. The USFA's accreditation system is a significant and well-intended training program. However the Committee is not in a position to recommend that this system be made mandatory for all spearfishers. That should be a matter for consideration by I & I and the Marine Park Authority with respect to access issues.

- 9.15** The Committee acknowledges that the USFA works to advance the best interests of its members. The Association's representatives have extensive knowledge of spearfishing and the marine environment however it would be inappropriate to consider that only USFA members have such expertise. As such, the Committee does not recommend the exclusive appointment of USFA members to fisheries management bodies. The Committee notes that under current legislation fisheries management bodies call for open nominations and that spearfishers should nominate for positions on all committees.

Community perception and concern

- 9.16** Throughout the Inquiry it was apparent that spearfishing proponents were concerned that conservationists, government departments and the wider community misunderstand the nature of spearfishing and its impact on the environment. Spearfishers felt that these negative perceptions impacted on the image of the sport and the way it is regulated. Individuals, such as Mr Darren Higgins, Accreditation Officer, Underwater Skindivers & Fishermen's Association, who believes that spearfishers are unfairly treated and marginalised, advanced this argument.⁸³³ Also supporting this stance was the Recreational Fishing Alliance who argued that spearfishers are poorly treated by authorities, face unnecessary restrictions to fishing areas and are denied adequate representation on boards and advisory committees.⁸³⁴

- 9.17** Various inquiry participants suggested that despite efforts by spearfishing groups to promote their sport, the general public and government departments do not understand or appreciate the differences between spearfishing and other fishing methods – particularly regarding environmental impacts. This frustrated efforts by the USFA and other spearfishers to have their method properly recognised. For example, Mr Wayne, argued that regulations for recreational fishers in general are not always appropriate for spearfishers:

Public and indeed government knowledge of our sport is little known today despite our efforts to have this great sport understood and accepted by Governmental bodies... Governmental departments need to understand that Spearfishing should not be regulated the same way as line fishing (recreational fishing) or commercial fishing. We should not be rolled automatically into decisions which are designed around line and commercial, as the effects of our sport are different.⁸³⁵

- 9.18** The submission for the USFA supported this statement saying that 'despite the best efforts of Spearfishers, their views are often dismissed by the government, particularly by agencies outside the Fisheries area.'⁸³⁶

⁸³³ Submission No. 1006, Mr Darren Higgins, p 5.

⁸³⁴ Submission No. 943, Recreational Fishing Alliance, p 18.

⁸³⁵ Submission 800, p 1.

⁸³⁶ Submission 920, p 1.

- 9.19** The environmental impact of spearfishing was a contested topic during the Inquiry. Spearfishers maintained that the selective, sight-based nature of their fishing method, and the ban of SCUBA equipment, ensure they have minimal impact on the marine environment and fish stocks. Mr Ric Cumming, Southern Marine Park delegate, Underwater Skindivers and Fishermen's Association, told the Committee that spearfishing is in fact very sustainable:

Spearfishing is the most sustainable form of fishing available anywhere in the world. Spearfishers are limited to depths available by freediving only, say 20 metres; that is the end of our go. Fish that go below 20 metres are safe; there is no noisy scuba involved. Spearfishers can select species, size and sex of target species, within Fisheries regulations.⁸³⁷

- 9.20** Mr Brown further encapsulated this frustration of spearfishers:

Despite spearfishing having been shown as the most selective and environmentally friendly form of fishing there exists immense prejudice towards spearfishers, most notably from government and environmental groups, the very ones who should be extolling its virtues.⁸³⁸

- 9.21** Among other inquiry participants there was opposition to the proposition that spearfishing is an environmentally sound activity. Dr Jonathan Neville studied spearfishing in Victoria and concluded that the sport can have disastrous effects on aquatic environments:

... spearfishing pressures on accessible reefs can result in the entire removal of obligate reef-dwelling species from a site. At other sites, credible anecdotal evidence indicates that the abundance of some species at many sites has been reduced so far that these species now play no part in the ecology of the reef – referred to as ecological extinction.⁸³⁹

- 9.22** The experience of some submission authors also suggests that certain spearfishers can lack respect for fish stocks and the marine environment. Mr Geoffrey Allen allegedly witnessed spearfishers not following bag and size limits or appropriate fishing protocol when cleaning their catch:

Last year whilst visiting Nelson Bay, Pt Stevens I witnessed two spear fisherman who had just returned from an outing with a bag of fish that, due to the weight, required both to lift from the boat. They then just left on the ground whilst they went to purchase & eat lunch. Over hearing their conversation their basic approach was. "if it moves. shoot it " I don't know what happened to the fish but they were certainly not in any hurry to remove the fish from the sun, clean & place onto ice. I would like to see bag and weight limits introduced for spear fisherman to prevent a reoccurrence of this situation.⁸⁴⁰

- 9.23** However, the selective nature of the method was recognised by other individuals during the inquiry, including conservationists. Fishing journalist, Mr Al McGlahan said that '... they [spearfishers] probably get the hardest time, the poor guys, who are extremely selective in their

⁸³⁷ Mr Ric Cumming, Southern Marine Park delegate, Underwater Skindivers and Fishermen's Association, Evidence, 26 May 2010, p 25.

⁸³⁸ Submission No. 948, p 6.

⁸³⁹ Submission No. 931, OnlyOnePlanet Consulting, p 2.

⁸⁴⁰ Submission No. 493, Mr Geoffrey Allen, p 1.

hunting and their impact is minimal at the end of the day.⁸⁴¹ Mr Ben Birt, Marine Conservation Officer, Nature Conservation Council of NSW, also acknowledged that spearfishing is more selective than other types of recreational fishing.⁸⁴²

9.24 Environmentally-friendly initiatives promoted by the USFA include the application of stringent bag and size limits and strict competition rules. The USFA claimed that the competition data they have collected over the past 60 years clearly demonstrates that spearfishing has no impact on biomass as the quantity and weight of fish has not declined over this period.⁸⁴³

9.25 Spearfishers recognised that some individuals may disregard the rules and regulations and thereby tarnish the reputation of the group as a whole. Most spearfishers follow the State's guidelines and are disappointed by the actions of those who flout them.

9.26 To settle this debate it was suggested by Mr Higgins that spearfishing be subject to an environmental impact study. According to Mr Higgins the study could examine the impact spearfishing had on reef systems and fish stock:

... as a spearfisher I would like to see an impact study properly conducted and peer reviewed inclusive of stakeholder collaboration to properly evaluate the impact of spearfishing compared to other associated aquatic activities.⁸⁴⁴

Access and regulation

9.27 I & I, through its Fisheries Operations and Compliance Operations Agriculture and Fisheries offices is primarily responsible for regulating spearfishing throughout the State. The department is responsible for monitoring and enforcing rules and regulations concerning prohibited equipment and activity. Banned spearfishing equipment and activities include:

- Hookah apparatus
- a light with a spear/spear-gun
- spear/speargun to take blue, brown or red groper or any protected fish
- power heads and explosive devices
- spearfishing on ocean beaches (except the last 20 m at each end of the beach)
- many entrances, coastal lagoons and other tidal waters are closed to spearfishing.⁸⁴⁵

⁸⁴¹ Mr Al MsGlashan, Fishing journalist, Evidence, 27 April 2010, p 59.

⁸⁴² Mr Ben Birt, Marine Conservation Officer, Nature Conservation Council of New South Wales, Evidence, 3 September, 2010, p 6.

⁸⁴³ Submission No. 920, p 2.

⁸⁴⁴ Submission No. 1006, p 4.

⁸⁴⁵ Industry & Investment NSW (I &I), <www.dpi.nsw.gov.au/fisheries/recreational/saltwater/spearfishing>, accessed 19 November 2010.

9.28 The Recreational Fishing Alliance contends that the practice of spearfishing is unduly hampered by the government's rules and regulations, and that spearfishing is over-regulated compared to other types of recreational fishing:

Some recreational fishing groups are not managed equitably and reasonably, Underwater fishers in particular are poorly treated. Although special interest groups such as this require a certain amount of specialised regulation and consideration by other anglers, it seems the only thing 'special' about their current situation is that they are over-regulated and unfairly banned from many fishing areas and lack representation on advisory councils and committees...⁸⁴⁶

9.29 Spearfishers are required to pay the recreational fishing license fee and must abide by the saltwater fishing bag and size limits. Certain spearfishers were insistent that they should be subject to different bag and size limits to anglers. Spearfishers forwarded arguments based on their conservationist credentials and their hunting skills to support their stance.⁸⁴⁷ It was also suggested that an alternative bag and size limit structure would allow for risk assessments to be carried out of the different methods of fishing.⁸⁴⁸

9.30 Rock lobster and abalone were the most frequently mentioned species requiring different bag and size limits. The USFA suggested that in an effort to better share resources the recreational quota of rock lobster should be increased and the commercial quota decreased, whereas for abalone the recreational limit should be maintained and the commercial quota reduced.⁸⁴⁹

9.31 Spearfishers face a number of access restrictions to waterways; they are prohibited from all inland waters and certain areas along the coast. Inquiry stakeholders repeatedly raised the issue of access to suitable fishing spots with the Committee. Mr Wayne provided a comprehensive list of prohibited spearfishing activities. The list indicated that spearfishers cannot spear in the following locations due to statutory bans:

- rivers
- lakes
- on beaches
- in Sydney Harbour North
- in dams
- on the best breakwalls
- in many areas of river or lake entrances
- within 200 meters of Grey Nurse Shark habitats at some locations

⁸⁴⁶ Submission 943, p 18.

⁸⁴⁷ Tabled document, *The Guide to Spearfishing in New South Wales*, 2008, p 4 and Mr Wayne, Evidence, 27 April 2010, p 38.

⁸⁴⁸ Submission 800, p 4.

⁸⁴⁹ Submission 920, p 2.

- at some reefs and Islands where Grey Nurse Sharks exist
- at Lord Howe Island
- on most deliberate or accidental sunken wrecks.⁸⁵⁰

9.32 Spearfishers are also prohibited from spearing blue groper, from carrying spear guns into National Parks displaying spearfishing prohibition signs and anchoring boats to spear in some locations due to statutory bans.

9.33 As noted earlier, spearfishers are restricted to the 20 metres at either end of beaches. There was some confusion as to where this policy originated however it is generally accepted as good practice as it protects the safety of other beach users. The only concern was that the ban continues to extend out to the horizon and therefore spearfishers cannot access areas that boat anglers can:

I think the deal of being able to get in the water either end is fine, bearing in mind that that extends out and out and out, theoretically. If there are two points of a headland coming right back into a beach and there is a lovely reef in the middle, theoretically you are not allowed to dive on that reef because it goes out eastward from the beach. That is where it is wrong. Entering the water is one thing. Once you get in the water it is a matter of how far out you can carry out the act of spearfishing that would concern me.⁸⁵¹

9.34 The government's closure of certain waterways and overland access to areas, as well as spearfishers' natural limitations caused certain inquiry participants concern, for example Mr Higgins described access issues as distressing.⁸⁵² These access restrictions also impede on the training of young spearfishers, as there are increasingly few places where they can learn to dive. In an effort to maintain spearfishers' access to popular fishing locations the USFA recommended that plans of management should be developed to preserve and maintain traditional public access routes.⁸⁵³

9.35 The establishment of marine parks along the NSW coast has caused a great deal of distress for spearfishers. Marine parks are designated multi-user areas however spearfishers felt their needs were ignored by zoning authorities. Spearfishing is allowed in all marine parks except the Lord Howe Island Marine Park, which the USFA called 'a disgrace, and can only be seen as discriminatory'.⁸⁵⁴

9.36 There was much discussion during the inquiry about the regulations concerning spear guns and access to spearfishing spots adjoining national parks. It is considered best practice within the spearfishing community to only have a loaded spear gun in the water. The USFA handbook dictates that spearfishers never load or carry a loaded spear gun out of the water (always load a spear gun after entering the water and unload the spear gun before seeking to leave the water).⁸⁵⁵

⁸⁵⁰ Submission 800, p 2.

⁸⁵¹ Mr Wayne, Evidence 3 September 2010, p 51.

⁸⁵² Submission 1006, p 1.

⁸⁵³ Submission No. 920, p 4.

⁸⁵⁴ Submission 800, p 2.

⁸⁵⁵ Tabled document, *The Guide to Spearfishing in New South Wales*, 2008, p 22.

9.37 Spearfishers were conversant with this practice. Mr Brown told the Committee that 'there is no specific regulation on that but we teach spear fishermen never to load a spear gun out of the water, make sure you are fully immersed in the water before you load it and always unload your spear gun before leaving the water.'⁸⁵⁶

9.38 Inquiry participants sought to clarify whether an individual traversing a national park or nature reserve could carry a loaded, or unloaded, spear gun. Clause 20 of the National Parks and Wildlife Regulation 2009 (NSW) outlines the prohibition of weapons inside national parks:

(1) A person must not in a park:

...

(b) carry or discharge or have in the person's possession any airgun, speargun or other lethal weapon, or

Maximum penalty: 30 penalty units.

(2) A person does not commit an offence under this clause for anything done or omitted with the consent of a park authority and in accordance with any conditions to which the consent is subject.

...

(6) A person does not commit an offence under subclause (1) (b) if the person carries or possesses an unloaded speargun in a park, unless a plan of management for a park or a notice erected in the park or given to the person prohibits the carrying or possession of a speargun (whether loaded or unloaded) in a park or any part of the park.

...

(8) In this clause, "unloaded speargun" means:

(a) an assembled rubber powered speargun that does not have the shaft engaged in the trigger mechanism and the rubbers stretched and engaged in the shaft, or

(b) in the case of a pneumatic, spring or gas powered speargun—one that does not have the spear shaft located within the barrel of the speargun, or

(c) a disassembled speargun.

9.39 Ms Diane Garrood, Regional Manager, South Coast Region, Department of Environment, Climate Change and Water summarised the effect of the regulation:

Basically, it is saying that if somebody has an unloaded spear gun that they are carrying through the park—the clause also gives a definition of what "unloaded spear gun"

⁸⁵⁶ Mr Brown, Evidence, 29 April, 2010, p 33.

means—then it is not an offence under our regulation for New South Wales national parks.⁸⁵⁷

9.40 Furthermore, if the plan of management for a NSW National Park does not permit the carriage of an unloaded spear gun through its jurisdiction, a sign must be displayed in the park to that effect.⁸⁵⁸

9.41 Spearfishers who appeared before the Committee were aware of this regulation. For example Mr Brown told the Committee that 'basically, you are allowed to carry spear guns through national parks to enter the water unless there is a sign specifically prohibiting the carriage of that speargun, and it is up to any individual national park whether they do that or not in their management.'⁸⁵⁹

9.42 There are certain National Parks, such as Narabeen Head Aquatic Reserve, that spearfishers can access. Mr Saunders, told the Committee that it is up to the manager of the particular national park:

[t]here are certain national parks, if you talk to the managers of that park you can get it [a spear gun] through because... spearfishing is allowed in national parks but it is up to the management of that national park whether you spearfish out of that national park. If you go down the national park of Sydney on any weekend you will see a lot of spear fishermen down there diving in the national park but then you go probably down to the one at Jervis Bay you just cannot go through the national park there and take spear guns and all that sort of thing because you will get knocked off and fined for it.⁸⁶⁰

Marine Parks

9.43 Marine park authorities have primary responsibility for monitoring spearfishing within their jurisdiction. All marine parks, except Lord Howe Island, allow spearfishing in habitat protection zones. Issues that arose during the inquiry included confusion about regulations regarding stowing equipment through marine parks, sharing areas with other marine park users and the potential loss of access to preferred fishing spots.

9.44 Mr Wady again emphasised the difficulties associated with diving to depths of more than 20 metres and claimed that the majority of marine park sanctuary zones take out most of the shallow water area that divers can access safely.⁸⁶¹

9.45 There was some debate about the appropriate way to stow spearfishing equipment when transiting through sanctuary zones in marine parks. The Marine Parks Authority defines stowed equipment as being '... contained or covered and secured or packed away. (For

⁸⁵⁷ Ms Diane Garrood, Regional Manager, South Coast Region, Department of Environment, Climate Change and Water, Evidence, 29 April 2010, p 8.

⁸⁵⁸ Ms Garrood, Evidence, 29 April 2010, p 8.

⁸⁵⁹ Mr Brown, Evidence, 29 April 2010, p 35.

⁸⁶⁰ Mr Saunders, Evidence, 27 April 2010, pp 36-37.

⁸⁶¹ Mr Wady, Evidence 27 April 2010, p 34.

example, a spear gun strapped to the hull or covered in a hold would be considered stowed. A spear gun lying on the deck of a vessel would not be considered stowed).⁸⁶²

9.46 Mr Max Haste, Manager, Port Stephens Great Lakes Marine Park, clarified the Marine Park Authority's position explaining that a practical approach to enforcement of the regulation is enacted. Mr Haste stated that 'we [Marine Park Authorities] would expect you to take measures to make it obvious to us that you are not intending to use it [spearfishing equipment] either right away or that you have used it right away.'⁸⁶³ Mr Haste reiterated that different approaches to stowing equipment are acceptable on different boats such as open tinnies and cruisers.⁸⁶⁴

9.47 A concern expressed by users of all marine parks was the ability to effectively share resources between user groups. The USFA argued that in cases of potential conflict with groups such as land-based anglers their code of conduct should be consulted. Essentially, spearfishers should keep a minimum distance from anglers and remain courteous. The Association argues that this approach has worked well for the past 50 years without any serious incident.⁸⁶⁵

9.48 The use of the review process for marine parks has assisted spearfishers in gaining greater access to most marine parks. Mr Wayne told the Committee that at the Batemans, Jervis Bay, Solitary Islands and Port Stephens-Great Lakes marine parks spearfishers have been able to negotiate for additional access during the review process:

I know we have achieved it [greater access] at Batemans, I know we have achieved it at Jervis Bay and we have achieved it at Coffs Harbour and Port Stephens, and it has been better. Every time we are able to be in there while some of this is being done and we are looking at the maps we can negotiate a bit back and say, "Why don't you grow that area and give us that little bit there?" It has worked to some degree.⁸⁶⁶

9.49 Spearfishers raised a number of issues relating to particular marine parks. These are considered in the following sections.

Lord Howe Island

9.50 Spearfishers were concerned that spearfishing is prohibited from the Lord Howe Island Marine Park. According to the Lord Howe Island Marine Park Authority spearfishing is banned from the area because spearfishing has an adverse impact on coral and is not compatible with other aquatic activities.⁸⁶⁷

9.51 Spearfishers feel that they have been unreasonably singled out by the Lord Howe Island Marine Park Authority. The USFA and the Recreational Fishing Alliance expressed frustration

⁸⁶² Marine Parks Authority, *Defences for the possession of fishing equipment in marine park sanctuary zones*, p 1 <www.mpa.nsw.gov.au/pdf/Defences%20for%20the%20possession%20of%20equipment%20used%20to%20take%20animals%20or%20plants.pdf>, accessed 19 November 2010.

⁸⁶³ Mr Max Haste, Manager, Port Stephens Great Lakes Marine Park, Evidence, 4 May 2010, p 39.

⁸⁶⁴ Mr Haste, Evidence, 4 May 2010, p 39.

⁸⁶⁵ Answers to written questions on notice, Mr Saunders, 28 May 2010, Question 4, p 5.

⁸⁶⁶ Mr Wayne, Evidence 3 September 2010, p 52.

⁸⁶⁷ Tabled document, Department of Environment, Climate Change and Water, *Lord Howe Island Marine Park User's Guide to the Zoning Plan*, Marine Parks Authority, 2004, p 39.

at this prohibition and noted that all other recreational fishers are permitted in the marine park's habitat protection zones.⁸⁶⁸ Mr Wayne argued that as a legitimate fisheries practice, spearfishing should be allowed in the area.⁸⁶⁹

- 9.52** Spearfishing stakeholders expressed a desire to reach a compromise with the marine park authority in an effort to allow spearfishing in Lord Howe Island. The marine park's rezoning process is currently underway and spearfishers hope to be given some access to the park. Mr Wayne believed it would be an opportunity to implement a host of flexible regulations, such as allowing spearfishing from charter operated boats and restricting bag limits on fish such as snapper.⁸⁷⁰

Jervis Bay Marine Park

- 9.53** Spearfishers offered mixed reviews about the Jervis Bay Marine Park. The Committee heard evidence that certain spearfishers had benefited from its introduction. For example, Mr Rod Peterlin told the Committee that 'spearing has become a lot better in some areas... the inner confines of Jervis Bay provide much better spearing for Bream and Blackfish, as these fish occur in numbers higher than I have ever noticed in all my years spearing Jervis Bay.'⁸⁷¹

- 9.54** Mr Peterlin also discussed downsides with the current regulations, including the increase in boat fishers and losing access to a few of his favourite fishing spots.⁸⁷²

- 9.55** Other stakeholders were concerned with the recent proposals in the marine park's rezoning plan that will further prohibit the activity of spearfishers. Of particular concern are the relocation of the St Georges-Steamers Head Sanctuary Zone and the creation of a 100 metre habitat protection zone for the exclusive use of land-based anglers.⁸⁷³ Mr Cumming, was disappointed in these proposals as he felt spearfishers were being treated inequitably:

Spearfishing bashing appears to be a very popular pastime, particular at Jervis Bay. The leaked details we are getting on the Jervis Bay rezoning indicate that we are going to lose territory there big-time... it is looking very bad for us, in that we appear to be, again, selectively locked out of areas which will then be made available to rock fishers...⁸⁷⁴

- 9.56** The NSW Government defended its decision to not allow any boat-based fishing, including spearfishing, in the newly proposed habitat protection zone because it would be too unsafe.⁸⁷⁵ Also, the area is bordered the Booderee National Park, a Commonwealth national park, thus it is not permissible to carry a spear gun through the park.⁸⁷⁶

⁸⁶⁸ Submission 943, p 18.

⁸⁶⁹ Mr Wayne, Evidence 27 April, 2010, p 35.

⁸⁷⁰ Mr Wayne, Evidence 27 April, 2010, p 35.

⁸⁷¹ Submission No. 79, Mr Rod Peterlin, p 1.

⁸⁷² Submission No. 79, p 2.

⁸⁷³ Ms Garrood, Evidence, 29 April 2010, pp 2-3.

⁸⁷⁴ Mr Cumming, Evidence, 26 May 2010, p 26.

⁸⁷⁵ Ms Garrood, Evidence, 29 April 2010, p 6.

⁸⁷⁶ LC *Questions and Answers* (31/08/2010) 4487.

Cape Byron Marine Park

9.57 The consultation process used for the Cape Byron Marine Park appeared to please spearfishers. Mr Wayne told the Committee that he and Mr Brown met with the marine park manager prior to the park's commencement and were able to compromise on a number of access issues.⁸⁷⁷

9.58 However, certain users of the Cape Byron Marine Park were perturbed by the lack of shore-based spearfishing locations within the marine park. It was claimed that most shallow water reefs have been made inaccessible to average spearfishers. The USFA noted that the small areas of headland along habitat protection zones drop immediately into sand substrate and can only be fished in very calm conditions.⁸⁷⁸ Mr Wady also suggested that spearfishers' access to the marine park had been limited through the use of sanctuary zones:

... in Byron Bay spearfishing has virtually been limited through the use of sanctuaries. We cannot go off the beaches there legally. So we cannot get into those in-shore waters because we cannot step off the beach to go spear fishing. We have to be within 20 metres of a headland and what is that?⁸⁷⁹

Batemans Marine Park

9.59 The spearfishing opportunities within the Batemans Marine Park were also brought to the attention of the Committee. Dr Brendan Kelaher, Manager, Batemans Marine Park, gave evidence that unlike other areas the Batemans Marine Park tends not to have conflicts between land-based anglers and spearfishers.⁸⁸⁰ Spearfishers can access all habitat protection zones except during seasonal closures.

Solitary Islands Marine Park

9.60 Discussions concerning spearfishing in the Solitary Islands Marine Park focused on the lack of suitable areas to train spearfishers and the proposed changes to the marine parks zoning plan. During the inquiry it was alleged that spearfishers are limited to less than one per cent of the Solitary Islands Marine Park and that there were no locations appropriate for training purposes.⁸⁸¹ This situation frustrated spearfishers and will hopefully be considered in the marine park's rezoning plan. The Committee heard that proposed changes to the Solitary Islands Zoning Plan would improve access for recreational fishers by changing a small area of the Groper Island Sanctuary Zone to allow seasonal spearfishing and recreational line fishing.⁸⁸²

⁸⁷⁷ Mr Wayne, Evidence 3 September, 2010, p 50.

⁸⁷⁸ Answers to questions taken on notice during evidence, Mr Saunders, 27 April 2010, Question 2, p 12.

⁸⁷⁹ Mr Wady, Evidence, 27 April 2010, p 34.

⁸⁸⁰ Dr Brendan Kelaher, Manager, Batemans Marine Park, Evidence, 26 May 2010, p 7.

⁸⁸¹ Mr Wayne, Evidence 3 September 2010, pp 47-48.

⁸⁸² Mr Michael Wright, Director, Protected Areas Policy and Programs, Department of Environment, Climate Change and Water, Evidence, 19 April 2010, p 4.

Committee comment

- 9.61** The Committee appreciates that spearfishing is an inherently selective fishing method and that, in general, like most other fishers, spearfishers adhere to NSW fisheries regulations. The Committee encourages all recreational fishers, including spearfishers, to respect NSW Fisheries regulations to ensure the preservation of fish stocks for future generations.
- 9.62** The Committee acknowledges that spearfishers appear to face more restrictive regulations than other recreational fishers. It is understood that the USFA does encourage a more conservative approach to bag and size limits for certain fish species, however it would not be practical to implement different bag and size limits for all recreational fishing types.
- 9.63** The Committee recognises that NSW marine parks are multi-user facilities and that spearfishers are entitled to appropriate access to these areas. It is important to take the safety of all marine park users into consideration when developing park boundaries. The Committee appreciates that, with the exclusion of the Lord Howe Island Marine Park, marine park advisory committees and other regulatory bodies have attempted to cater to the needs of spearfishers. The Committee commends the use of the NSW Government's rezoning process for any future changes to zoning plans, so long as all stakeholders views are properly acknowledged.
- 9.64** The Committee understands that the zoning plan for the Lord Howe Island Marine Park is currently under review. The Committee expects that the viability of allowing spearfishers access to habitat protection zones in this marine park will be thoroughly investigated.

Representation

- 9.65** Spearfishers called for greater representation on all trusts and advisory boards. It was claimed that the unique characteristics of spearfishing meant that anglers and other types of fishers could not adequately represent spearfishers' interests. As previously noted, the USFA requested that it have one of their members appointed to all fisheries management bodies.
- 9.66** There was a claim that pressure from environmental groups has led to spearfishers not being represented on certain fisheries bodies, particularly marine park advisory committees, a view expressed by Mr Cumming:

Spearfishing has been particularly targeted by Coastwatchers, the National Parks Association [NPA] and the local greens, due largely to the use of a primitive rubber-powered weapon—the speargun. The extreme view and unwarranted political influence of Coastwatchers, the Nature Conservation Council and the NPA has denied spearfishers legitimate democratic representation on both the Lord Howe Marine Park Advisory Committee and the Jervis Bay Marine Park Advisory Committee.⁸⁸³

- 9.67** Marine park advisory committees consist of representatives from key stakeholder groups, including recreational fishers, who offer advice on the zoning and management plans for their particular park.⁸⁸⁴ Lord Howe Island, Cape Byron and Jervis Bay marine parks do not

⁸⁸³ Mr Cumming, Evidence, 26 May 2010, p 25.

⁸⁸⁴ Submission 1007, NSW Government, pp 14-15.

currently have spearfishing appointees on their advisory committees. Many spearfishers expressed hope that this situation will be rectified.⁸⁸⁵

- 9.68** Marine park advisory committees can and do consult with spearfishers. For example, the Committee was told that the Jervis Bay Marine Park Advisory Committee has previously sought advice from spearfishing experts and used focus groups prior to making decisions pertaining to the sport.⁸⁸⁶
- 9.69** Mr Brown, a previous appointee to the Jervis Bay Marine Park Advisory Committee, has had firsthand experience of its consultative processes and presented a different perspective to the Committee. Mr Brown claimed that the Jervis Bay Marine Park Advisory Committee does not adequately represent the needs of spearfishers and that recreational fishers deserve expert representatives across all fishing disciplines.⁸⁸⁷
- 9.70** The Recreational Saltwater Trust Expenditure Committee provides advice on the priorities for expenditure from the recreational saltwater trust fund.⁸⁸⁸ Mr Brown alleges that there has never been a spearfishing representative on this committee despite previous ministerial assurances that all major stakeholders would be represented.⁸⁸⁹ This apparent failure to include spearfishers further fuels their frustration and encourages feelings of disillusionment with government processes.
- 9.71** Bag and size limits for recreational fishing species are reviewed every five years in NSW. There was some discontent among inquiry stakeholders that spearfishers are not represented on the Saltwater Regulations Review Committee as it is felt that their unique hunter/gather behaviours require special consideration.⁸⁹⁰ Mr Brown also alluded to an earlier government promise of a Management Committee that would specifically address the special needs of spearfishing, such as different bag and size limits.⁸⁹¹
- 9.72** As examined in Chapter 5, a number of spearfishers called for the formation of an independent, fully funded peak body that is representative of all recreational fishers.⁸⁹² It was expected that a peak body would be better suited to champion the cause of spearfishers than the organisations in the current regulatory environment.

Committee comment

- 9.73** Trusts and advisory committees play an important role in the promotion of sustainable spearfishing. The Committee appreciates the contribution spearfishing representatives make to the current system of trust and advisory committees. There are a limited number of appointees on these bodies and it would be unfair to mandate a place for spearfishers and not

⁸⁸⁵ Submission 975, Mr Wady, p 3.

⁸⁸⁶ Mr Wady, Evidence, 27 April 2010, p 38.

⁸⁸⁷ Submission 948, Mr Mel Brown, pp 3-5.

⁸⁸⁸ I & I, <www.dpi.nsw.gov.au/fisheries/recreational/licence-fee/trusts/rfstec>, accessed 19 November 2010.

⁸⁸⁹ Submission 948, p 5.

⁸⁹⁰ Submission 948, p 5.

⁸⁹¹ Submission 948, p 6.

⁸⁹² Submission 1006, p 3.

for other specific fishing types. The Committee makes recommendations in Chapter 4 for improvements to current representative structures which should benefit all recreational fishers in NSW, including spearfishers.

Gaps in recreational fishing programs for spearfishers

- 9.74** Spearfishers were highly critical of what they perceived as the NSW Government's neglect of their sport. A large number of spearfishers were disappointed that they did not benefit from government-sponsored recreational facilities and activities such as recreational fishing havens (RFHs), fish aggregating devices (FADs) and artificial reefs.
- 9.75** It was argued that as recreational fishing license holders', spearfishers should benefit from the facilities to which their license fees have contributed. The Recreational Fishing Alliance stated in its submission that spearfishers are not adequately provided for by the allocation of recreational fishing trust monies:
- although the licence fee revenues are divided into funds (freshwater and saltwater) there seems to be no accountability for equitable application of funds to different fisheries or user groups within those sectors, for example, many underwater fishers feel they receive relatively little in return from their payment of licence fees.⁸⁹³
- 9.76** A number of spearfishers highlighted that they did not enjoy equal access to important facilities their fees helped established. For example, spearfishers cannot access most RHF's because they are in coastal lakes and estuaries. There were calls for the NSW Government's stance on spearfishers' access to RFHs to be re-evaluated.⁸⁹⁴
- 9.77** Spearfishers were also disappointed about their access to FADs. FADs have been established for the enjoyment of all recreational fishers, including spearfishers. The FADs code of conduct explicitly states that all fishers, including spearfishers, using the equipment should respect other FAD users.⁸⁹⁵
- 9.78** Although the FADs are multi-user facilities, spearfishers felt that in reality such a situation was not possible. Mr Wayne explained that 'the FADs are a massive conflict. As soon as a line fisherman sees a spear fisherman out there it is on the radio and all over the place, you know, these people are in the water, they are dangerous. So the FADs are of no benefit to us.'⁸⁹⁶
- 9.79** Another contentious issue for spearfishers was the use of artificial reefs. There was discussion during the Inquiry that the reefs were either placed in areas too deep for spearfishers to free

⁸⁹³ Submission 943, p 10.

⁸⁹⁴ Submission 948, pp 7-8.

⁸⁹⁵ I & I, <<http://www.dpi.nsw.gov.au/fisheries/recreational/saltwater/fads/code>>, accessed 18 November 2010.

⁸⁹⁶ Mr Wayne, Evidence, 27 April 2010, p 37.

dive or were in locations that prohibited spearfishing.⁸⁹⁷ Again, there appeared to be difficulties associated with line and spearfishers sharing facilities which caused much frustration for spearfishers:

Even the new artificial reefs, as good as they are going to be for line fishing, going in 35 metres of water, that is not going to do us much good. We cannot dive 35 metres or anything like it, although people attempt to at times and we do not like that either. Another problem we have with losing territory is that there are reefs 120 feet deep that blokes will attempt to dive because they cannot dive on the reefs that are 60 feet deep because they are closed. There is a safety issue involved in that.⁸⁹⁸

- 9.80** The NSW Government currently has two artificial reef programs and acknowledged that spearfishers can face difficulties accessing these facilities. The NSW Government has proposed three offshore artificial reefs near Sydney, Newcastle and Wollongong however they will be in areas too deep for spearfishers to access.⁸⁹⁹ The Committee was told that spearfishers' concerns would be addressed in the NSW Government's management plan for the program.⁹⁰⁰

Committee comment

- 9.81** The Committee is concerned that spearfishers do not have equal access to recreational fishing areas and facilities, such as RFHs, FADs and artificial reefs. Monies from the recreational fishing license fee should be used towards programs that assist all recreational fishers, including spearfishers.
- 9.82** The Committee notes that the NSW Government has promised to address spearfishers' concerns in its management plan for its offshore artificial reefs. The Committee considers it desirable that the Government ensure equitable access for spearfishers to recreational fishing programs such as FADs and artificial reefs. As such, it would be appropriate for Industry & Investment NSW to examine the potential for exclusive use by spearfishers of some of these facilities on a temporal or spatial basis.

Recommendation 34

That Industry & Investment NSW examine the potential for use by spearfishers of recreational fishing havens, fish aggregating devices and artificial reefs on a temporal or spatial basis.

⁸⁹⁷ Submission 800, p 3.

⁸⁹⁸ Mr Wayne, Evidence, 27 April 2010, p 37.

⁸⁹⁹ Mr Bryan van der Walt, Acting Manager, Recreational Fisheries Programs, Industry & Investment NSW, Evidence, 19 April 2010, p 30.

⁹⁰⁰ Mr van der Walt, Evidence, 19 April 2010, p 30.

Chapter 10 Rock fishing

Rock fishing is a distinct form of fishing that participants acknowledge has an inherent amount of danger. This chapter examines two primary issues specific to rock fishing; safety and access.

What is rock fishing?

- 10.1** Rock fishing refers to the process of fishing from rock ledges, submerged rocks, rock faces and rocks that go into the water and is widely regarded as extremely dangerous.⁹⁰¹ Twelve people have died while rock fishing off the NSW coastline during 2010.⁹⁰² A rock fisher also went missing near Manly in October 2010.⁹⁰³
- 10.2** The loss of life is devastating for the families and friends of the victims however it also carries significant social burdens, including strains on the medical system, loss of income and productivity and the high cost of search and rescue.⁹⁰⁴
- 10.3** In 2003 the NSW Water Safety Task Force released the *Investigation into the coronial files of rock fishing fatalities that have occurred in NSW between 1992 and 2000*. The report analysed the coronial files of the 74 rock fishing fatalities that occurred in NSW between 1992 and 2000. One of the investigation's most significant findings was that the majority of rock fishing fatalities involved individuals who were born outside of Australia, with approximately 51 per cent of individuals killed being of Asian descent.⁹⁰⁵ The report also found that:
- 95 per cent fatalities were male;
 - 88 per cent of fatalities were Australian residents;
 - 69 per cent of victims were born outside of Australia;
 - 77 per cent did not use any form of personal protection or safety equipment;
 - flotation aids were not used by any victims;
 - 19 per cent of victims wore appropriate footwear;
 - at least 10 per cent of incidents involved alcohol;
 - 75.7 per cent of victims lived in greater Sydney metropolitan areas;
 - 24 per cent of victims were fishing alone;

⁹⁰¹ State Government of Victoria, <www.watersafety.vic.gov.au/wps/wcm/connect/watersafety/Water+Safety/Home/Rock+Fishing/>, accessed 19 November 2010.

⁹⁰² Kwek G, 'Search resumes for missing rock fisherman', *Sydney Morning Herald*, 18 October 2010.

⁹⁰³ Kwek G, 'Anglers urged to share safety tips after fisherman goes missing', *Sydney Morning Herald*, 18 October 2010.

⁹⁰⁴ Surf Life Saving Australia, 2009 – *National Coastal Safety Report*, 2009, p 22.

⁹⁰⁵ NSW Water Safety Task Force, *Investigation into the coronial files of rock fishing fatalities that have occurred in NSW between 1992 and 2000*, September 2003, p 5.

- on 80 per cent of occasions the deceased was conscious and able to float for some time before drowning;
- 70 per cent of fatalities occurred in rough and very rough sea conditions; and,
- 11 per cent of fatalities occurred during calm seas.⁹⁰⁶

10.4 The most common dangers associated with rock fishing are changes in the weather, swell and tidal conditions. During his evidence to the Committee Mr Greg Davis, President, Canberra Fisherman's Club, recalled his experience of being swept off the rocks:

I was very lucky, I did see a wave coming. I admit I had been complacent. I had fished these rocks in heavy seas many times before... this one wave came through and it convinced me there are things like freak waves. All of a sudden there was in excess of a metre of water coming over the rocks towards me, so I was lucky I could get up on to some high rocks. Definitely it can be a dangerous activity.⁹⁰⁷

10.5 Dangerous rock fishing areas, commonly known as 'black spots' are located along the NSW coastline, including inside marine parks. In 2003 the NSW Water Safety Task Force identified Jervis Bay, Port Kembla, Royal National Park, Cape Banks La Perouse, Little Bay, Manly, Avoca and Munmorah State Recreation Area as the most dangerous areas for rock fishers.⁹⁰⁸

Lifejackets

10.6 Following the deaths of six rock fishers in May 2010 there were renewed calls in the media for the Federal and State Governments to implement stricter rock fishing regulations, including the mandatory wearing of lifejackets by rock fishers.⁹⁰⁹ The community's response to this suggestion varied with certain individuals and groups supporting the proposition while others preferred education to increased regulation.

10.7 When worn correctly lifejackets assist people to float and may prevent them from drowning. In NSW it is mandatory to wear a lifejacket when:

- crossing a coastal bar;
- riding on a personal watercraft;
- engaged in tow-in surfing; and,
- on a canoe, kayak, windsurfer or kitesurfer when 400 metres or more from shore.⁹¹⁰

⁹⁰⁶ *Investigation into the coronial files of rock fishing fatalities that have occurred in NSW between 1992 and 2000*, pp 5-6.

⁹⁰⁷ Mr Greg Davis, President, Canberra Fisherman's Club, Evidence, 27 May 2010, p 81.

⁹⁰⁸ *Investigation into the coronial files of rock fishing fatalities that have occurred in NSW between 1992 and 2000*, p 6.

⁹⁰⁹ Robinson G, 'Call for life jacket law to save lives', *The Sydney Morning Herald*, 12 May 2010.

⁹¹⁰ NSW Maritime, *Lifejackets and times of heightened risk. When should they be worn by boaters? Should they be worn by rock fishers?*, stakeholder discussion paper, 2009, p 10.

- 10.8** There are three types of lifejackets that meet Australian Standards and NSW regulations. The life jackets vary according to buoyancy, the use of high-visibility colours and their suitability for certain activities.
- 10.9** There is some confusion as to whether self-inflating or auto-inflating lifejackets would be most appropriate for rock fishers. If swept into the water, rock fishers face potential drowning and can be knocked against the rocks adding additional danger to rescue efforts. Although Mr Davis was not wearing a lifejacket during his experience highlights the dilemma faced by rock fishers:
- In the example of my incident, if I did not see that water coming and I was knocked over, there is a possibility that my lifejacket would have inflated because I would have been saturated at the time. But, also, if it had knocked me over, 10 metres behind me was another jagged rock ledge of a metre high. So I probably would have slammed into that and there is the possibility that that jacket could have been torn and I would have been unconscious, so in that case I would have been better off with another form of lifejacket.⁹¹¹
- 10.10** Certain members of the community supported the introduction of mandatory life jackets. A number of publications quoted Mr Tony Wood, Crew Chief, Westpac Life Saver Rescue Helicopter, supporting the introduction of mandatory life jackets, noting he had 'pulled too many dead bodies out of the water.'⁹¹²
- 10.11** During his evidence to the Committee Mr Stan Konstantaras, President, NSW branch, Australian National Sportfishing Association (ANSA), argued that while his organisation recommended rock fishers wear lifejackets, education rather than regulation would be a more effective means of addressing this problem. Mr Konstantaras said that:
- I think I would like to try, and my association would like to try, education before regulation. I think with regulation... we have really got no way of enforcing it. I do not want to see Fisheries officers or the water police or police going down on rock platforms in two-metre seas to ping a guy without a lifejacket on. The compliance side of things I have real doubts with. So I think we should really focus on education.⁹¹³
- 10.12** Mr Konstantaras emphasised that fishers may be reluctant to wear lifejackets in calm conditions, '... there are incidences when it is flat calm. Saturday, for instance, was dead calm off Sydney. Why would you put a lifejacket on? Only if you could not swim perhaps you would put it on...'⁹¹⁴
- 10.13** Mr Davis lent his support to lifejacket education programs, saying that while some fishers may be too macho to wear lifejackets, it is a significant issue and that an initiative to introduce or promote the use of lifejackets for rock fishers could save lives.⁹¹⁵ Mr Davis further noted that

⁹¹¹ Mr Davis, Evidence, 27 May 2010, p 82.

⁹¹² Holland M, 'Survivor fishing for mandatory life jackets', *The Daily Telegraph*, 13 May 2010; 'Whan says no to mandatory life jackets', *Fishing World*, 17 May 2010.

⁹¹³ Mr Stan Konstantaras, President, New South Wales branch, Australian National Sportfishing Association, Evidence 27 April 2010, p 49.

⁹¹⁴ Mr Konstantaras, Evidence 27 April 2010, p 50.

⁹¹⁵ Mr Davis, Evidence, 27 May 2010, p 81-82.

certain members of the Canberra Fisherman's Club wear lifejackets when rock fishing in all weather conditions, as they recognise the risks associated with the activity.⁹¹⁶

- 10.14** On 17 May 2010 the Hon Steve Whan MP, Minister for Primary Industries, publicly supported promoting education over regulation. Minister Whan expressed the opinion that educating rock fishers to take personal responsibility for their safety would be a more effective measure than making lifejackets compulsory.⁹¹⁷ He noted that rock fishers should wear lifejackets but believed it would be difficult to enforce such a regulation.⁹¹⁸
- 10.15** In 2009 NSW Maritime released a discussion paper on lifejacket safety. The Authority does not have a role in regulating rock fishing; however they included the topic in an effort to encourage stakeholders to share their views.⁹¹⁹ The topic was not however included in NSW Maritime's final report into lifejacket reforms.

Safety and education initiatives

- 10.16** In an effort to counter the rock fishing death toll fishing groups and private organisations, supported by the Federal and State Governments, have created and implemented innovative programs to protect fishers and to educate them about the dangers of their sport. The most widely recognised initiatives are the Angel Ring Project and the 'Don't put your life on the line' program.
- 10.17** The Angel Ring Project started in 1994, in an effort to cut the death toll associated with rock fishing. It has been documented that angel rings assisted in the rescue of 34 rock fishers.⁹²⁰ ANSA manages the Project, overseeing the installation of life rings, or ship-style lifebuoys, on dangerous rock fishing spots.⁹²¹ Angel rings can either be post mounted or wall mounted depending on the site circumstances. Figures 4 and 5 are examples of post mounted and wall mounted angle rings.

⁹¹⁶ Mr Davis, Evidence, 27 May 2010, p 82.

⁹¹⁷ *The Ray Hadley Morning Show*, 2GB, Sydney, 17 May 2010.

⁹¹⁸ *The Ray Hadley Morning Show*, 2GB, Sydney, 17 May 2010.

⁹¹⁹ *Lifejackets and times of heightened risk. When should they be worn by boaters? Should they be worn by rock fishers?!*, p 23.

⁹²⁰ Angel Ring Project, *NSW Angel Ring Update*, July 2010, p 1, <www.angelrings.com.au/wp-content/uploads/2010/06/NewsBulliten25thJuly2010.pdf>, accessed 19 November 2010.

⁹²¹ Mr Konstantaras, Evidence 27 April 2010, p 42.

Figure 4 Post mounted angel ring⁹²²**Figure 5 Wall mounted angel ring⁹²³**

- 10.18** Angel rings aim to keep people afloat and way from rocks. The project is funded by the NSW Salt Water Fishing Trust, the NSW Government, and Federal Government grants, as well as in kind contributions from ANSA.
- 10.19** There are currently 105 angel rings on the rocks of NSW, including glow-in-the-dark rings to assist fishers at night, and rings in some police cars.⁹²⁴ The rock fishing community has embraced the initiative. The Canberra Fisherman's Club noted that their members felt comforted in the knowledge that angel rings are available should they find themselves in any danger.⁹²⁵
- 10.20** An education campaign is run in conjunction with the Angel Ring Project. The 'Don't put your life on the line' program seeks to educate recreational fishers, particularly rock fishers,

⁹²² Angel Ring Project, <www.angelrings.com.au/?page_id=339>, accessed 22 September 2010.

⁹²³ Angel Ring Project, <www.angelrings.com.au/?page_id=339>, accessed 22 September 2010.

⁹²⁴ Mr Konstantaras, Evidence 27 April 2010, p 42.

⁹²⁵ Submission No. 929, Canberra Fisherman's Club, p 17.

about minimising the dangers associated with their sport. The campaign targets people from non-English speaking backgrounds.

10.21 The campaign includes a website, instructional DVD, pamphlets, fact sheets and workshops. The rock fishing safety tips promoted by the campaign include:

- always wear a lifejacket;
- carry a rope and float with you;
- wear light clothing;
- wear appropriate footwear;
- wear shoes with non-slip soles;
- ask advice from locals;
- fish in places that you know are safe;
- spend at least half an hour observing your location;
- know the tide and weather;
- never fish alone;
- tell someone where you are; and,
- if conditions worsen, find a calmer spot or go home.⁹²⁶

10.22 The safety DVD has been translated into Chinese, Korean and Vietnamese and workshops have been run targeting the same ethnic groups. Mr Konstantaras told the Committee about the program:

We have a free rock fishing safety DVD that is translated into Chinese, Korean and Vietnamese. These ethnic groups are overrepresented in statistics... We participate in rock fishing safety workshops where, through the trust fund, we are able to hire some coaches and target a specific ethnic group on a day—whether it is Chinese Vietnamese or Korean—bring them out to the rocks and go through some safety issues with them on how to fish safely.⁹²⁷

10.23 In an effort to reach a larger audience the campaign advertises in ethnic newspapers, as well as on ethnic radio programs and is trying to purchase television-advertising space.⁹²⁸ Having studied data relating to rock fishing fatalities, as discussed in paragraph 10.3, Mr Konstantaras also noted that there are plans to target local newspapers in areas that rock fishers often live, such as the inner city suburbs of Sydney, Western Sydney and regional NSW.⁹²⁹

⁹²⁶ Australian Government, Department of Agriculture, Fisheries and Forestry, Recreational Fishing Alliance, Surf Life Saving, Recreational Fishing Trust, Australian National Sportfishing Association, NSW Government, Communities, Sport & Recreation, *Don't put your life on the line*, Instructional DVD.

⁹²⁷ Mr Konstantaras, Evidence 27 April 2010, p 42.

⁹²⁸ Mr Konstantaras, Evidence 27 April 2010, p 42.

⁹²⁹ Mr Konstantaras, Evidence 27 April 2010, pp 49-50.

10.24 Mr Konstantaras was keen to highlight that the education campaign had been a success:

As part of our strategy on rock fishing safety we go out and do post-evaluation reports on some of the messages we get out, and the one we did in the ethnic community in November we had a 44 per cent unaided recall rate of our safety messages. Industry standard is about 10 per cent we think. So that is a huge input we are having into the community. We just need to keep reinforcing and getting those messages out.⁹³⁰

10.25 Certain inquiry participants, including Mr Shane Jasprizza, Treasurer of Australian National Sportfishing Association (ANSA) NSW and. Member of Canberra Fishermen's Club, called for the Government to make an ongoing commitment to the Angel Rings Project and other fishing safety initiatives to further encourage rock fishing safety.⁹³¹

10.26 There was some concern that the current safety campaigns have not adequately prevented rock fisher deaths. An alternative safety measure presented by the Coast and Wetlands Society was the implementation of 'no rock fishing' days under certain conditions. The Coast and Wetlands Society explained that:

... it is clear, that at least to date, safety education campaigns have not been notably successful and that it may be appropriate to consider establishing a regime of 'no rock fishing' days under particular sea conditions (analogous to fire bans) which would permit authorities to require fishers to cease their activities before accidents occur.⁹³²

10.27 The 'Rock Fishing Danger Rating' would assess the potential ocean/waterway dangers associated with rock fishing on a particular day, as determined by the Rock Fishing Danger Index. Similar to the Fire Danger Index, the Rock Fishing Danger Index could calculate conditions such as swell, wind, wave direction

10.28 Despite the suggestion that alternative safety education programs be investigated, on 17 June 2010 the Hon Steve Whan MP, Minister for Primary Industries announced an additional \$90,000 funding for rock fishing safety programs. The funding will include \$30,000 to provide multilingual safety information and \$60,000 to expand the Angel Ring Project.⁹³³

Committee comment

10.29 The Committee recognises that rock fishing is a popular pastime for a large number of individuals. This method, however does come with a number of inherent risks, many of which can be mitigated if individuals follow the safety advice offered in the 'Don't put your life on the line' campaign. Most rock fishers engage in safe fishing practices however all rock fishers must pay close attention to the weather, swell and tidal conditions to ensure they are not swept into the water.

⁹³⁰ Mr Konstantaras, Evidence 27 April 2010, p 49.

⁹³¹ Submission 965, Mr Shane Jasprizza, Treasurer of Australian National Sportfishing Association NSW and. Member of Canberra Fishermen's Club p 4.

⁹³² Submission 785, Coast and Wetlands Society, p 3.

⁹³³ Hon Steve Whan MP, Minister, Primary Industries, *Further funding for rock fishing safety*, Media Release, 17 June 2010.

- 10.30** The Committee applauds the work of ANSA in managing the Angel Rings Project. All participants in the 'Don't put your life on the line' campaign should also be praised for their commitment to rock fishing safety. The Committee notes the additional funding the NSW Government recently provided to both projects and looks forward to the installation of more life rings along the NSW coast and the production and dissemination of rock fishing safety information.
- 10.31** The Committee acknowledges that there is debate concerning the introduction of the mandatory wearing of lifejackets by rock fishers. Certain inquiry participants argued in favour of maintaining the status quo however the death of high number of rock fisher deaths in 2010 should not be ignored. It is widely recognised that wearing a lifejacket is best practice and in light of the results of the NSW Water Safety Taskforce report it can be concluded that it may be beneficial to make lifejackets compulsory. Consideration of life jacket should include non-inflatable buoyant safety jackets, similar to those used by big wave surfers. At this stage the Committee is not of the view to further impose regulation.

Recommendation 35

That the Water Safety Advisory Council investigate the most appropriate type of lifejacket for rock fishers and publicise this information and further investigate the possibility of introducing mandatory use of life jackets for rock fishers particularly at high risk fishing sites.

Rock fishing in marine parks

- 10.32** During the inquiry there was much debate about marine parks and their impact on different types of recreational fishing, including rock fishing. The Committee heard complaints by a number of participants regarding access to safe and desirable rock fishing locations within marine parks and disputes about sharing locations with other marine park users.
- 10.33** Concerns were raised that rock fishers had been pushed into increasingly dangerous locations in the Jervis Bay Marine Park. It was noted that within this marine park there is a popular land-game fishing spot, known as The Tubes, which offers fishers the opportunity to catch marlin off the rocks during November and April.⁹³⁴ This area is also highly desirable to divers, demanding that the marine park authority implement seasonal regulations to monitor access by both groups.
- 10.34** Mr Konstantaras expressed his frustration at the fact that rock fishers are forced into a location that is not safe in certain swells with no alternative:

At Jervis Bay Marine Park our land-based anglers are funnelled into a very small area that is leading to overcrowding and conflict. Also, it is an area that is not fishable safely in a southerly swell. This little platform is called the Tubes. The Outer Tubes has been historically a world-class fishing location inside Jervis Bay for the last 50 to 60 years.⁹³⁵

⁹³⁴ Correspondence from Mr Matt Carr, Manager, Jervis Bay Marine Park, to Principal Council Officer, 2 June 2010.

⁹³⁵ Mr Konstantaras, Evidence 27 April 2010, p 45.

- 10.35** Mr Konstantaras feared that forcing rock fishers to fish on the southerly headland in all weather conditions undermined the safety message that he and others try to promote.⁹³⁶ To encourage marine parks to develop more conducive environments for rock fishing, Mr Konstantaras suggested that all sanctuary zones adjacent to rocks have a 100-metre buffer zone where rock fishers are able to target pelagic fish.⁹³⁷
- 10.36** The Recreational Fishing Alliance also raised this issue with the Committee. In their submission the organisation suggests that the closure of access routes to land-based rock fishing locations within the Jervis Bay Marine Park had inadvertently diverted fishers to unsafe locations.⁹³⁸
- 10.37** The Jervis Bay Marine Park Authority told the Committee that it had addressed concerns about the accessibility of safe rock fishing locations within its jurisdiction. The Committee heard that there are a number of proposed changes to the marine park's zoning plan under consideration, including increased access to rock ledges. The recent re-zoning plan seeks to increase the amount of land available to rock fishers within the marine park.⁹³⁹
- 10.38** One proposed change involves moving the St George-Steamers Head Sanctuary Zone and creating a new 100 metre wide habitat protection zone adjoining the rocky reef. Ms Dianne Garrod, Regional Manager South Coast Region, Department of Environment, Climate Change and Water, stated that:
- the relative movement of the Steamers Head Sanctuary Zone to pick up more intermediate reef... would encompass a number of popular rock fishing sites. So, depending again on public comments that do come in, the proposal is to have a 100-metre wide habitat protection zone adjoining the rocky reef. So, it would provide for rock fishers to be able to fish from shore but not for boat fishing because it would be too unsafe.⁹⁴⁰
- 10.39** Mr Ric Cumming, Southern Marine Park delegate, Underwater Skindivers and Fishermen's Association, expressed his displeasure at the potential rezoning of the Jervis Bay Marine Park as he feared that rock fishers will benefit to the detriment of spearfishers. Mr Cummings said that:
- ... we [spearfishers] appear to be, again, selectively locked out of areas which will then be made available to rock fishers... It appears that similar provisions are being promoted at Jervis Bay but off the rocks, which is our prime area in a shallow reef.⁹⁴¹
- 10.40** The Chair was concerned that spearfishers had been deliberately excluded from the zone, despite targeting the same range of fish species as other recreational fishers.⁹⁴² The NSW

⁹³⁶ Mr Konstantaras, Evidence 27 April 2010, p 45.

⁹³⁷ Mr Konstantaras, Evidence 27 April 2010, p 46.

⁹³⁸ Submission 943, Recreational Fishing Alliance, pp 18-19.

⁹³⁹ Ms Dianne Garrod, Regional Manager South Coast Region, Department of Environment, Climate Change and Water, Evidence 29 April 2010, p 6.

⁹⁴⁰ Ms Garrod, Evidence 29 April 2010, p 6.

⁹⁴¹ Mr Ric Cumming, Southern Marine Park delegate, Underwater Skindivers and Fishermen's Association, Evidence, 26 May 2010, p 26.

⁹⁴² *LC Questions and Answers Paper* (31/08/2010) 5326.

Government explained that spearfishers would not have access to the area because it is exposed to dangerous swells and shoals and because the proposed habitat protection zone bordered the Booderee National Park, which does not allow the carriage of spear guns.⁹⁴³

- 10.41** The Committee also heard debate concerning the protection of certain rocky outcrops within the Cape Byron Marine Park. Mr Ken Thurlow of ECOfishers NSW, argued that the habitat protection zone at the Bream Hole failed to adequately accommodate the needs of rock fishers as it was too small and crowded.⁹⁴⁴

Committee comment

- 10.42** The Committee recognises that rock fishers have special needs in terms of location and in turn this can impact on their safety. The Committee acknowledges that rock fishers are concerned that marine parks have restricted their access to safe fishing locations however in certain cases this issue has been addressed. It is essential that marine park authorities, and local National Parks management, acknowledge the significance of rock fishing safety issues.
- 10.43** The Committee notes that as marine parks are multi-purpose areas they should provide accessible and safe rock fishing locations. It would be preferable for these rock fishing locations to cater to other recreational fishing including spearfishing. It is vital to continue promoting measures, such as seasonal access or temporal or method regulation, to popular fishing spots, to alleviate competition for resources.

⁹⁴³ *LC Questions and Answers Paper (31/08/2010) 5326-5327.*

⁹⁴⁴ Mr Ken Thurlow, ECOFishers NSW, Evidence, 15 June 2010, p 72.

Chapter 11 Commercial fishing

NSW has a history of commercial fishing and many regional towns have a commercial fishing heritage. The commercial fishing industry makes a significant contribution to the overall state economy and is particularly important for some regional centres. The commercial and recreational fishing sectors share many similar concerns, primarily the continued sustainability of fish stocks and the health of the marine environment. The NSW commercial fishing industry is highly regulated to ensure its sustainability and its impact should not be compared to those of less effectively regulated fisheries in other parts of the world

Concern at further loss of access

- 11.1** The recreational fishing sector was concerned by their perceived loss of access to fishing areas that occurred as a result of the establishment of marine parks. However, the commercial sector lost an even greater amount of access during this process. In addition commercial fishing access has been restricted by the establishment of recreational fishing havens (RFHs).
- 11.2** This inquiry itself caused some alarm among the commercial fishing sector, because of the concern that it might recommend the creation of further RFHs. Representatives from the commercial fishing sector were anxious to participate in the Inquiry in order to plead their case that the industry could not withstand further professional fishing exclusion zones.
- 11.3** Mr Graeme Byrnes, Manager, Alan A Byrnes and Sons, said that the initial round of RFHs in conjunction with exclusions from marine parks had put the NSW commercial fishing industry on a knife's edge. He believed that any further loss of access would in all likelihood destroy the industry. Mr Byrnes said the industry was in desperate need of security if it was to hope to foster investment and job creation.⁹⁴⁵
- 11.4** Mr Peter Turnell, Director Fisheries Resource Management, Industry and Investment NSW (I & I), said that it was a challenge to balance the allocation of resources between the commercial and recreational fishing sectors. Mr Turnell said the department viewed the current balance as appropriate:
- I guess it is one of the challenges we deal with all the time trying to balance with industry and the social fabric that the commercial industry provides in many small coastal towns to supply fresh local seafood. A lot of people see it as an important thing. A lot of people enjoy seafood, in particular, local as opposed to imported seafood who cannot go out and catch it themselves. I think there is an important place for the commercial industry. The recreational industry has benefited, I guess, in recent years with the establishment of recreational fishing havens and some of the projects and programs funded by the recreational licence. I see it as an ongoing balancing act and personally I am quite comfortable with where it is at the moment.⁹⁴⁶
- 11.5** Professor Robert Kearney, Emeritus Professor of Fisheries, University of Canberra, was (because of his public criticism of the establishment of marine parks) considered and referred

⁹⁴⁵ Mr Graeme Byrnes, Manager, Alan A Byrnes and Sons, Evidence, 19 April 2010, p 46.

⁹⁴⁶ Mr Peter Turnell, Director Fisheries Resource Management, Industry and Investment NSW, Evidence, 19 April 2010, p 15.

to by recreational fishing stakeholders as a champion of their cause generally. However, it should be noted that Professor Kearney does not favour the establishment of RFHs as a means of resource allocation:

I think that the public of New South Wales have a right to seafood and anglers have a right to catch fish, but I do not particularly favour exclusion of one over the other. I think the fact that 20 per cent of the people go fishing gives considerable rights to anglers and that needs to be respected, but about 95 per cent of the public of New South Wales eat fish. I accept that inevitably around the world because of other perceived benefits that come to coastal communities from angling there has been pressure to exclude commercial fisheries, but that is not a principle that I like.⁹⁴⁷

11.6 While the possible creation of more RFHs was perceived as a potential threat, marine parks continue to be the primary concern of the commercial sector. Mr John Harrison, Executive Officer, Professional Fishermen's Association, said that membership of the association had doubled in six months. Mr Harrison put the growth in membership to the realisation on the part of wild harvest fishers of the extreme threat to their livelihood posed by the marine park process.⁹⁴⁸

11.7 Mr Grahame Turk, Chair, NSW Seafood Industry Council also urged caution before the creation of any more RFHs was considered. The day of Mr Turk's appearance before the Committee coincided with the announcement of the proposed ban on commercial prawn trawling within the boundaries of the Solitary Islands Marine Park, which he described as one more in the thousand cuts the industry had suffered:

I add two things to what Mr Byrnes has said. First, I support his statement that the commercial fishing industry is facing very difficult times and announcements such as today's announcement about the Solitary Islands Marine Park, is just another cut in the thousands of cuts that the industry has had. The cumulative impact of marine parks and recreational fishing havens has been quite considerable on the commercial fishing industry.⁹⁴⁹

11.8 In evidence, Professor Kearney argued that the proposed closure of prawn trawling within the Solitary Islands marine park could have a serious flow-on effect on areas outside the Marine Park:

Furthermore, in the case of fishing in the Solitary Islands Marine Park, one of the areas inside the park that is proposed to be closed to trawling is about the most productive prawn trawling area. If you are going to regulate trawling then the silliest thing you can do is close the most productive area. In fisheries management, if you are going to close a fishery which is sustainable and which has been assessed to be sustainable you are forcing the trawlers to fish other areas harder than they have previously done because the best areas are closed.

⁹⁴⁷ Professor Robert Kearney, Emeritus Professor of Fisheries, University of Canberra, Evidence, 3 September 2010, p 36.

⁹⁴⁸ Mr John Harrison, Executive Officer, Professional Fishermen's Association, Evidence, 15 June 2010, p 10.

⁹⁴⁹ Mr Grahame Turk, Managing Director, Sydney Fish Market and Chair, NSW Seafood Industry Council, Evidence 19 April 2010, p 46.

The net flow-on effect from that is an increase in fishing, or perhaps even an expansion into areas that have not previously been trawled to try to make up for the catch that has been lost. It is important to note that the industry itself has identified areas outside the park where they believe trawling should be curtailed because they are juvenile nursery areas. I think there is 180 square miles that they have proposed and currently have as a voluntary closure. That is a closure that has some purpose.⁹⁵⁰

- 11.9** As examined in Chapter 4, the Independent Review of Marine Park Science recommended that socio-economic issues required more overt attention during 2010-2015, including more emphasis on integrating socio-economic studies with biophysical studies to improve the effectiveness of the management of marine parks.
- 11.10** The Committee notes that a range of views have been expressed about the proposal to phase out prawn trawling in Solitary Islands Marine Park and that the Minister for Climate Change and the Environment and Minister for Primary Industries will be considering the submissions and comments from the local marine park advisory committee prior to making the final zoning plan.

Recommendation 36

That Industry & Investment NSW in consultation with recreational fishers and other relevant bodies, investigate and identify locations and circumstances in which limited commercial access can be maintained.

The buy-out process

- 11.11** Commercial fishers were critical of the actions that restricted their access to fishing grounds. However, they were just as, if not more, critical of the accompanying buy-out processes.
- 11.12** The NSW Government submission states that more than \$30 million has been spent to reduce commercial fishing effort in marine parks, to offset the reduced access to sanctuary and habitat protection zones and prevent the transfer of effort to other areas. Around 170 fishing businesses have been voluntarily bought out and licences and shares cancelled. Across the marine park system this has resulted in the removal of trawling, a high impact commercial fishing method, from all sanctuary and habitat protection zones and from the Batemans Marine Park entirely.⁹⁵¹
- 11.13** With respect to RFHs, commercial fishers that were affected were made a monetary offer to surrender their commercial fishing entitlements. The offers were calculated from the history of the fishing business, or in some cases, the estimated market value. A total of 251 fishing businesses were purchased at a cost of \$18.5 million,⁹⁵² funded ultimately from the recreational fishing trusts.

⁹⁵⁰ Professor Kearney, Evidence, 3 September 2010, p 41.

⁹⁵¹ Submission 1007, NSW Government, p 9.

⁹⁵² Submission 1007, Appendix 7, p 27.

- 11.14** In evidence Mr Turnell reiterated that the objective of the buy-out process was to have no net shift of fishing effort from one location to another. However, he acknowledged that some commercial fishers that were bought out in one area then bought entitlements in another area:

The goal would obviously be to have **no** net shift of fishing effort from one location to another as a result of a closure and a buyout. That is the objective of such a process. But some fishers who get bought out in a certain area [but] fishing is their life—as a commercial fisher it is their tradition—they will seek to buy back into a new area. Obviously the small coastal towns and villages where commercial fishing is quite predominant, when a new player turns up it causes a few ripples, if you like.⁹⁵³

- 11.15** The Committee heard that the experience of fishers buying back into the industry has resulted in increased effort in certain areas and this has caused some consternation among recreational and commercial fishers alike. The problem arose from the existence of latent effort – fishing entitlements that had not been used for some time.

- 11.16** Mrs Kathleen Cheers outlined the problems faced by her family who commercially fish in Region 4. The problems arose from the buy-out of commercial fishers from Region 5, some of whom then purchased latent entitlements to fish in their region:

At the moment the recreational fishing havens have bought out professional fishermen in region 5. As you know, New South Wales has seven regions. We are in region 4, which covers the area from Crowdy Head to just past Lake Macquarie. Money from the recreational fishing havens bought out fishermen in region 5. The next day people in region 4 were allowed to buy back into the industry and to compete with my family, which has been fishing in region 4 for 120 years. My son is a sixth-generation fisherman. Our income has gone from \$100,000 a year to \$30,000 or \$35,000. We are trying to compete with fishermen who have come from region 5, who have new boats and new motors, and who have paid off their homes. They have been able to keep all their fishing gear and here we are in region 4 still working our old boats and our old motors and trying to compete with people who have been bought out. One family from region 5, which received \$1 million, came back into region 4 just after it had been bought out. How does that work?⁹⁵⁴

- 11.17** Mrs Cheers said that the effect of this has caused widespread depression among professional fishers in Region 4. She told the Committee that 75 per cent of the fishers in the region, involving approximately 25 to 30 fishing licenses, wish to be bought out.⁹⁵⁵

- 11.18** Mr Kelvin Wynn, commercial fisher, was a recipient of a buy-out process. He noted that it cost him three-quarters of his payment to purchase new licences. Mr Wynn said he believed that there are still many unused licenses that may be reactivated in the future:

I was bought out when Lake Macquarie was made into a recreational fishing haven. I was probably one of the biggest recipients of a buyout. To buy back in probably cost me three-quarters of what I was paid to get out. In many ways I was probably one of them. Some of the effort went back in straightaway. I waited a couple of years before

⁹⁵³ Mr Peter Turnell, Director Fisheries Resource Management, Industry and Investment NSW, Evidence, 3 September 2010, p 17.

⁹⁵⁴ Mrs Kathleen Cheers, Evidence, 4 May 2010, p 45-46.

⁹⁵⁵ Mrs Cheers, Evidence, 4 May 2010, p 52; see also Mr Kelvin Wynn, commercial fisher, Evidence, 4 May 2010, p 61, who considered 25 per cent effort reduction was required.

buying back in, but in the first lot of recreational fishing havens there was no five-year limit, which I think was included in the last lot of marine park buyouts—a five-year moratorium that fishermen could not come back in. I certainly believe that many licences are still lying around that were not taken out or bought up.⁹⁵⁶

11.19 Mr Wynn told the Committee that with less area available to them, as a result of the creation of RFHs and marine parks and other closures, commercial fishers face the prospect of travelling further than they had previously – and that with better travelling conditions, better roads it was now a lot easier to travel. The result is that some areas are seeing greater effort than they had previously.⁹⁵⁷

11.20 In evidence Mr Lawrence McEnally, Director, Macleay River Fishermen's Cooperative stated, which was also raised in many submissions, about the increased commercial pressure on the Macleay River arising from the establishment of RFHs and other closures. Mr McEnally stated that the buy-out process was not as comprehensive as it needed to be. Mr McEnally said there was a need to determine just what commercial fishing pressure can be supported by each region:

You can compound that a little bit because some of the Coffs Harbour fishermen can no longer fish there because of restriction from the marine park. When I bought my licence only three years ago, there were just five commercial fishermen regularly making a living just doing what we do. There are now 10. We have guys drifting up from Camden Haven for one, two or three weeks. We have got guys drifting down from Scotts Head, Coffs Harbour and that area. It is just adding and adding to the pressure.

...When the actual recreational fishing havens came in, six fishermen were bought out of the area but it has not been enough. It just seems that the Fisheries department needs to make a formal study of just how much pressure can be applied to each region or each fishing area. You have probably heard the same sort of thing: the Clarence River has got issues; we have got issues and further south have got issues. Somewhere, someone has to make a decision as to what happens with the volume or the number of fishermen who can work a particular area.⁹⁵⁸

11.21 Mr John Burgess, Executive Officer, Australian National Sportfishing Association, said that the buy-out of commercial fishing interests in Sydney Harbour (Port Jackson) had resulted in increased effort in the Hawkesbury. Mr Burgess argued that the commercial effort had doubled. He suggested that all of the commercial effort that was operating in Port Jackson should have been bought out.⁹⁵⁹

11.22 I & I advised that 37 commercial fishing businesses were bought out as part of this particular buy-out process. It is important to note that estuary general fishers that previously operated in Port Jackson had entitlement to fish in other estuaries in that region, including the

⁹⁵⁶ Mr Kelvin Wynn, Evidence, 4 May 2010, p 54.

⁹⁵⁷ Mr Wynn, Evidence, 4 May 2010, p 55.

⁹⁵⁸ Mr Lawrence McEnally, Director, Macleay River Fishermen's Cooperative, Evidence, 5 May 2010, p 23.

⁹⁵⁹ Mr John Burgess, Executive Officer, Australian National Sportfishing Association, Evidence, 19 April 2010, p 58.

Hawkesbury. I & I stated that there is no indication that the level of commercial fishing in the Hawkesbury is unsustainable.⁹⁶⁰

Committee comment

- 11.23** The buy-out process did result in a net shift of effort from one region to another. There has also been movement of effort within regions. There was a view among inquiry participants that the buy-out processes should have been more comprehensive than they were.
- 11.24** The Committee agrees with the proposition that the level of commercial fishing pressure which can be borne by each region needs to be determined. However the Committee also notes that it was advised that negotiations regarding a restructure of the commercial fishing industry are currently underway.
- 11.25** The Committee was advised that \$1.5 million had been set aside to assist commercial fishers to leave the industry. Commercial fishers will be offered up to \$15,000 in addition to what they can get for selling their share entitlements to other commercial fishers. The aim of this and other elements of the restructure is to reduce the overall number of operators in the industry.⁹⁶¹
- 11.26** On the evidence it received it is clear there is a need to further reduce the number of commercial fishing operators to ensure the viability of the industry. The amount of \$1.5 million appears inadequate when compared to the amount expended on previous buy-outs.

Can commercial fishers move into aquaculture?

- 11.27** A number of inquiry participants from the recreational fishing sector and other stakeholder groups suggested that commercial fishing operators should be assisted and redirected into aquaculture. The Committee notes that such a change is not the simple step that some assume it would be, and that many commercial fishers have a long family tradition of commercial fishing.
- 11.28** The Committee was advised that while I & I believed there was significant potential for the aquaculture industry to develop in NSW, there were probably limited opportunities and limited spatial areas in which it would be suitable in the State's waterways.⁹⁶²
- 11.29** Mr Wynn gave up his endorsements within Region 5 as part of the buy-out process associated with the establishment of the Lake Macquarie RFH. He said that he, despite some

⁹⁶⁰ Answers to questions taken on notice during evidence, Mr Bryan van der Walt, Acting Manager, Recreational Fisheries Programs, Industry and Investment NSW, 3 September 2010, Question 10, p 7.

⁹⁶¹ Mr Turnell, Evidence, 3 September, 2010, p 17 and p 21.

⁹⁶² Mr Paul O'Connor, Principal Director, Fisheries and Compliance, Evidence, 3 September 2010, pp 26-27.

encouragement, had never considered moving into aquaculture:

I have yet to come across, except for silver perch, a fish farm that is really viable. With the snapper farm out here there was good expectations. No, I have never considered going into a fish farm but I was given the opportunity to.⁹⁶³

- 11.30** Mr John Clarke, recreational fisher, described the problems faced by a local snapper farm venture. He believed the main obstacle was that farmed fish did not have exactly the same appearance as those harvested in the wild:

There is a snapper farm off Cabbage Tree Island out in the ocean. The trouble is that when we get a six-metre sea it lifts up the whole shebang and drops about 30,000 snapper onto Hawks Nest Beach. I call them escapees.

...Interestingly enough, one of the reasons that that did not succeed is that they did not really look like snapper. Snapper have a beautiful pink and crimson colour. They were selling the local ones for a higher price than they were getting for wild fish from New Zealand. The fish actually looked more like bream than snapper. When you see fish on the shelves that is half the reason you buy them.⁹⁶⁴

- 11.31** In evidence Mr David Anderson, Chairman, Clarence River Fishermen's Cooperative, said he was aware of a mullock aquaculture project based on land adjacent to the lower reaches of the Clarence, which he believed was showing much promise.⁹⁶⁵ The Committee notes the report in the media that the recipient of the NSW Farmers Association's 'Young Farmer of the Year' award was establishing a mullock aquaculture project:

The Young Farmer of the Year went to Andrew Carroll – a trailblazer in the fishing industry...The 35-year old has been working hard to establish sustainable farming of mullock, a species he has identified as being perfect for land-based pond farming. "The species is underrated as far as eating" he said, "With wild fisheries being seriously farmed this could be a way of the future."⁹⁶⁶

- 11.32** Mr O'Connor said he did not see any need to restructure the commercial fishing industry to direct people into aquaculture. He did note that commercial fishers, like any business people, will take advantage of opportunities if they arise.⁹⁶⁷

Committee comment

- 11.33** The Committee believes that aquaculture projects should be encouraged where appropriate. In particular it hopes that endeavours with mullock meet with success given the current status of that fish stock. However, it does agree that there is no simple or easy transition from commercial wild fisheries to aquaculture.

⁹⁶³ Mr Wynn, Evidence, 4 May 2010, p 55.

⁹⁶⁴ Mr Clarke, recreational fisher, Evidence, 4 May 2010, p 26.

⁹⁶⁵ Mr David Anderson, Chairman, Clarence River Fishermen's Cooperative, Evidence, 15 June, 2010, p 42.

⁹⁶⁶ *The Daily Telegraph*, 22 July 2010, p 21.

⁹⁶⁷ Mr O'Connor, Evidence, 3 September 2010, p 27.

A sustainable, well regulated industry

11.34 Representatives from the commercial fishing sector were at pains to point out that their industry was sustainable, highly regulated by world standards, and increasingly working to reduce its impact in terms of by-catch. It is also important to note that just as there are many different types of recreational fishing, there is wide variance between different commercial fisheries.

11.35 Ms Mary Howard, Director, NSW Women's Industry Network Seafood Community, pointed out that the trawl fishery in which she worked, was subject to a range of regulations to ensure its sustainability:

Referring to the actual practice, working under the Fisheries Management Act, the regulations with which a trawl fishery has to comply are quite complex. There are a multitude of restrictions relating to gear size, boat size, mesh size, the area that you can access, by-catch exclusion devices, days worked, and a reduction in days worked not so long ago. All those activities are put there to make the fisheries sustainable.⁹⁶⁸

11.36 The Committee was advised of initiatives by the industry to improve the public's perception of its credentials in terms of sustainability.⁹⁶⁹ Mr Turnell advised that there were also current discussions on a campaign to promote locally caught seafood on the basis of its sustainability:

But we have been speaking with the commercial industry in recent times about commencing a program to identify fresh local seafood as an alternative to imported, whether it is imported from other States or overseas. The reason being is that we do have comprehensive environmental impact statements that were prepared for each of our commercial fisheries. Whilst there is in certain quarters a lot of criticism of commercial fishing, in New South Wales it is highly regulated and subject to some pretty strong environmental requirements. We would like to give consumers the option to think about those things when deciding whether to pay a few extra dollars for a premium local product.⁹⁷⁰

11.37 Ms Howard stressed that there were differences between the different types of fisheries – the prawn trawl fishery, the estuary general fishery and the ocean trawl fishery. Even within these fisheries there are different gear restrictions depending on the area being worked.⁹⁷¹

11.38 Many people who are critical of the impact of commercial fishing point to the destruction of habitat and the large by-catch associated with commercial trawling practices. However, Professor Kearney has argued that not all trawling causes physical damage to habitats. It depends on the type of trawling employed and how well it is managed:

The [statement] that 'trawling is known to cause physical damage to habitats' is in itself misleading. Some trawling does cause physical damage and some does not. Also,

⁹⁶⁸ Ms Mary Howard, Director, NSW Women's Industry Network Seafood Community, Evidence, 19 April 2010, p 49.

⁹⁶⁹ Answers to written questions on notice, 11 May 2010, Grahame Turk, Chair, NSW Seafood Industry Council, Question 4, p 5; see also attached report on campaign: *Aussie Seafood – Bought to you by our Fishermen*.

⁹⁷⁰ Mr Turnell, Evidence, 3 September 2010, p 21.

⁹⁷¹ Ms Howard, Evidence, 19 April 2010, p 50.

it must not be assumed that all change is damage. There is little doubt bottom board-trawling over substrates with significant levels of removable benthic habitat causes changes that are usually damaging. There is also little doubt that excessive or badly managed trawling can cause excessive exploitation of target and/or by catch species which are damaging, at least in some areas. On the other hand even bottom board-trawling in NSW estuaries has been found to cause no detectable impact on bottom benthos (Underwood, A.J, 2007) let alone damage. It must also be noted that mid-water trawling does not usually make contact with the bottom and therefore does not normally cause 'physical damage to habitats'. Danish seining is a form of 'trawling' that is far more selective than board-trawling and in many cases should be considered separately.⁹⁷²

- 11.39** Professor David Booth, Councillor, Australian Marine Sciences Association – NSW Branch, also emphasised the differences between fisheries. He said that he was involved in a project looking at the comparable sustainability of specific fisheries. He noted that it would be surprising to many that some bottom trawling fisheries were found to be relatively sustainable:

I am involved in a scientific reference panel looking at seafood products around Australia for their sustainability. This is quite an exciting project where, rather than looking at species like whether bream are sustainable, we are looking at a specific bream, the Spencer Gulf prawns, the Hawkesbury squid, which actually came up as relatively sustainable in spite of being a bottom trawling fishery. That just proves to me that you cannot say there is a bad type of fishing and a good type of fishing. It is possible to be relatively sustainable with any method. I guess what I am saying there is that step one is we need to look at the sustainability of the different sorts of fishing and maybe pick out the best-practice examples in different areas. Once we get those in place, then I think we can have pretty much any balance that the community wants.⁹⁷³

Improvements in commercial practices

- 11.40** I & I advised that it undertakes ongoing review and research of Bycatch Reduction Devices. This has led to the mandatory use of square-mesh cod ends in the Estuary Prawn Trawl Fishery.⁹⁷⁴
- 11.41** Mr Leslie Cheers, an estuary general commercial fisher, described to the Committee the by-catch sorting process employed in his fishery:

You haul the net in and then you are in the cod end, and you are standing in water this deep. You let the little ones out and put the big ones in the boat and that is the way it works. You do not kill any. Some nets will catch an undersized bream in the flathead net but you let it go. You put it down a pelican pipe and let it swim away. There is very little dead fish. You do not see dead fish floating around anymore these days.⁹⁷⁵

⁹⁷² Answers to written questions on notice, Professor Robert Kearney, Emeritus Professor, University of Canberra, 2 June 2010, p 4.

⁹⁷³ Professor David Booth, Councillor, Australian Marine Sciences Association – NSW Branch, Evidence, 27 April 2010, p 10.

⁹⁷⁴ Answers to questions taken on notice during evidence, Mr Bryan van der Walt, Acting Manager, Recreational Fisheries Programs, Industry and Investment NSW, 19 April 2010, p 2.

⁹⁷⁵ Mr Leslie Cheers, commercial fisher, Evidence, 4 May 2010, p 52.

- 11.42** In evidence, Mr McEnally described the soon to be implemented improved by-catch reduction for ocean prawn trawlers – the introduction of square mesh codends, and ventured this will probably reduce by-catch by 25 per cent.

There is a hole in the top of the net, which usually measures 300 by 300, and a series of panels let the prawns through and exhaust the by-catch. Initially, it was developed for turtles because we could not get export licences to the United States if we did not have turtle exclusion. It was developed for the exclusion of marine turtles. It has now been developed further by putting on what are called square mesh codends. In diamond mesh the diamond draws tight under pressure. You might start off with an inch and half mesh, but it finishes up at quarter of an inch. With square mesh it starts off at an inch and a quarter and stays at an inch and a quarter. From March next year all trawlers will have to use square mesh codends. That lets out another large percentage of your by-catch. It will probably also let out a fair percentage of the prawn catch.⁹⁷⁶

- 11.43** Many recreational fishers are critical of the discarded by-catch associated with commercial fishing practices. On a number of occasions⁹⁷⁷ recreational fishers painted the image of commercial fishing vessels returning to port being trailed by seabirds:

Have you seen trawlers returning to port with hundreds of seagulls and other seabirds diving into the water following the trawlers? What do you think those birds are eating? They are eating the undersized and unmarketable fish that are thrown over the side dead, fish that are caught up in the massive netting operations. What is the price to conservation? This is called "by-catch" and is not counted as "fish taken", so that is not considered in the equation. They can kill and take millions of small fish, kill them at will, throw them over the side and feed the seagulls and then have the hide to say that the recreational fishermen are destroying the fisheries.⁹⁷⁸

- 11.44** Similarly, Mr Andrew Hestelow, recreational fisher, argued that there is no basis for the claim that recreational fishing is applying too much pressure on fish stocks given the impact of commercial fishing. In evidence Mr Hestelow recounted his experience, albeit some years ago, of witnessing the discarded by-catch from commercial trawling:

I was coming back into Pittwater and it was a very calm day. Looking out across the front of the boat I could see a band floating across the top of the water, about three metres wide and not too long. It was hard to identify exactly what the band was composed of. As we drew closer I saw it was composed of thousands upon thousands of immature fish—they are called trawler trash or by-catch. Those little fish had been picked up by the net and compressed with the mesh and killed and brought aboard and sorted on the sorting table and dumped back over the side. That line of fish went as far as the eye could see north to south—obviously not kilometres but there were tens of thousands of immature fish in that line.⁹⁷⁹

- 11.45** As well as continually introducing gear improvements I & I advised that it undertakes compliance operations. It advised that while it some operations are run to ensure that

⁹⁷⁶ Mr McEnally, Evidence, 5 May 2010, p 25.

⁹⁷⁷ Witness 1, Evidence, 29 April 2010, p 1.

⁹⁷⁸ Mr Bob Penfold, Evidence, 4 May 2010, p 4.

⁹⁷⁹ Mr Andrew Hestelow, recreational fisher, Evidence, 30 August 2010, p 77-78.

commercial fishers do not take and resell excessive by-catch, it also places scientific observers on commercial fishing boats to assess discarded by-catch impacts:

With bycatch we have trip limits. If people are going to interact with a non-target species they will inevitably catch them. We say that they can keep a small amount by weight. That hopefully deters people from targeting the fish we do not want them to catch. Inevitably in some operations there will be bycatch. There are compliance operations with respect to those bycatch size limits.

[on the water] ...and, more importantly, back at port. It is when they are landed that it becomes more definitive that an offence may or may not have been committed. One of the other methods we use for bycatch, as opposed to compliance action, is to have fisheries observers. We have scientific observers go out on commercial fishing boats to note what is happening in the real operations of the commercial fishing industry. That helps us to get an idea of what bycatch issues there are and how we might best deal with them.⁹⁸⁰

- 11.46** Commercial fishers are legally required to submit records to I & I of all fishing activities undertaken. The specific details they are required to submit include all fish taken during their activities and all fish disposed of during or after those activities.⁹⁸¹ In addition I & I collects specific by-catch data from some fisheries, particularly where there are indications that by-catch could be a problem.⁹⁸²

Committee comment

- 11.47** In Chapter 3 the fact that there was no accurate estimate of the overall recreational fishing catch was examined. This lack of accurate data was described as being the recreational fishing sector's 'Achilles heel'. It would be fair to say that the lack of data on actual by-catch, or if this data is known the lack of its presentation, is the commercial fishing industry's weak point in terms of public perception.
- 11.48** Notwithstanding the continual improvement in by-catch reduction devices, the general perception that the discarded by-catch of commercial fisheries is significant will be hard to dispel. If there was a relatively accurate estimate of the discarded commercial by-catch of various fish species this would serve to deflect criticism and allow a more accurate assessment of its comparable extraction with respect to recreational fishing.
- 11.49** If I & I does possess a relatively reliable estimate of discarded commercial by-catch for all or some fish species they should be published. If they do not, then additional action, such as an increase in the use of observers, should be undertaken in order to obtain that information.

Recommendation 37

That Industry & Investment NSW publish information on the discarded by-catch in NSW.

⁹⁸⁰ Mr Turnell, Evidence, 3 September 2010, pp 27-28.

⁹⁸¹ Answers to questions taken on notice during evidence, Mr van der Walt, 3 September 2010, Question 15, p 10.

⁹⁸² Mr Turnell, Evidence, 3 September 2010, p 28.

The conflict between the commercial and recreational fishing sectors

- 11.50** It was evident during the Inquiry that there was significant common ground between the commercial and recreational fishing sectors.
- 11.51** A large number of submissions from recreational fishers called for either an increase in RFHs or banning commercial trawling from all estuaries or both. Similarly there were many accusations that illegal or wantonly destructive practices were common within the commercial industry.
- 11.52** Some of these claims were based on incorrect assumptions. For example some submissions to the Inquiry were concerned at the sight of Queensland registered vessels and crews working in NSW waters, believing that there were in breach of fishing regulations.⁹⁸³ It should be noted that a single commercial fisherman has the right to purchase multiple fishing endorsements within one or any number of the commercial fishing regions within the State, and that endorsements may also be purchased by interstate commercial fishers.
- 11.53** Many participants described instances of actual or perceived illegal activity by commercial fishers. In evidence, Mr Stephen Dial, Moderator, *NewcastleFishing.com*, related a number of first-hand examples of professional fishers operating illegally within Lake Macquarie.⁹⁸⁴ However, it must be noted that recreational fishers are equally appalled by members of their own kind who act illegally – whom they describe as the minority who tarnish the reputation of the sector. The commercial sector would, quite rightly, make the same claim with respect to those of their members who break the law.
- 11.54** There was much debate on the use of destructive and wasteful commercial practices. Stories of particular incidents, witnessed first-hand or relayed, were recounted to the Committee. Some argue that these practices continue while others insist that such practices have not occurred for some time.
- 11.55** The most frequent story retold related to the destruction of a large amount of mullet solely for the purpose of extracting their roe:
- A few years ago I watched them haul the mullet onto the beach at One Mile Beach—which is just four or five miles down from here—and I noticed a front-end loader on the beach. I wondered what this guy is doing here. He was digging a big trench. The fishermen pulled all the mullet onto the beach, they opened them up, they took the female fish roe out of them, they loaded them, they put them in big plastic drums they had in the back of the Toyota and they dumped all the mullet into the big trench that the big front-end loader had dug and buried them. Tell me that is good conservation practice. What a horrific waste!⁹⁸⁵
- 11.56** Commercial fishers strongly rebutted this assertion, arguing that such practices had not occurred for quite some time.⁹⁸⁶ In evidence, Mr Clarke argued the story was more rumour than fact:

⁹⁸³ Submission 28, Mr and Mrs Parker, p 1; Mr Peter Hemmings, Member, Hat Head Bowling and Recreation Amateur Fishing Club, Evidence, 5 May 2010, p 19.

⁹⁸⁴ Mr Stephen Dial, Moderator, *NewcastleFishing.com* Evidence, 4 May 2010, pp 19-20.

⁹⁸⁵ Mr Penfold, Evidence, 4 May 2010, p 4; see also Mr Dial, Evidence, 4 May 2010, p 22.

⁹⁸⁶ Mr Cheers, Evidence, 4 May 2010, p 45; see also Mr McEnally, Evidence 5 May 2010, p 26.

Earlier two speakers referred to big hauls of mullet being dug into the beach and buried. I have been here for a long time and I am on the beach all the time. I have heard rumours but I have never been given one scrap of evidence. I ask those people who gave that evidence to you today to present it to me and it will be on the front page of the local paper next week.⁹⁸⁷

- 11.57** There is no doubt that part of the reason why many recreational fishers have a dim perception of commercial practices stems from their unequal ability to compete for the same resource in the same area. A number of recreational fishers noted that their ability to catch fish in an area can be negated for days once it has been subject to commercial fishing.⁹⁸⁸ In evidence, Mr Dial recounted his experience of observing this immediate impact:

There is a reef off Swansea; they call it the Farm. It is six nautical miles out. Any day of the week you can go out there and there is a trawler. He has not got one net out; he has got three—one net on the bottom and one of either side at different depths. A kilometre behind him there is another one, cleaning up. I have been there and I have depth sounder readouts from in front of them. They go over it and two or three hours later, if you run over it, there is not one fish showing there. They are gone.⁹⁸⁹

- 11.58** In evidence a number of commercial fishers said they could appreciate why recreational fishers resent their presence. Mr McEnally related three factors relating to beach hauling that can contribute to recreational fishing resentment: the visual impact of the practice; certain techniques involving working an entire beach; and poor manners displayed by non-local commercial fishers.⁹⁹⁰
- 11.59** Similarly, Mr Wynn noted that some commercial fishers needed to be more aware of their impact on recreational fishers:

Most recreational guys that I come across are out there having a bit of recreation. I think where it does come into a problem is where they see commercial fishers going to the same place time and time again and there is a bit of resentment and areas do not get a chance to recover.⁹⁹¹

Committee comment

- 11.60** The Committee notes that the decision to prohibit commercial fishers from operating on weekends was made to partly address the conflict between commercial and recreational fishers. However, some resentment on the part of individuals from either sector will invariably remain for as long as their activity is restrained by the actions or needs of the other.
- 11.61** Despite the inevitable level of competition between the two sectors, the fact that they share significant goals and concerns has led to calls for greater formal cooperation between them.

⁹⁸⁷ Mr Clarke, Evidence, 4 May 2010, p 32.

⁹⁸⁸ For example: Ms Marion Stockman, Owner, Harry's Bait and Tackle, Evidence, 26 May 2010, p 46.

⁹⁸⁹ Mr Dial, Evidence, 4 May 2010, p 22.

⁹⁹⁰ Mr McEnally, Evidence, 5 May 2010, pp 26-27.

⁹⁹¹ Mr Wynn, Evidence, 4 May 2010, p 60.

The need to bring the commercial and recreational sectors together

11.62 A number of inquiry participants said that they had long argued for an independent representative body, representing both the commercial and recreational sectors, to provide frank advice to the Minister of the day. The rationale is that as there is one resource there should be one source of advice, and because effectively more than 90 per cent of the issues that face both sectors are identical.⁹⁹²

11.63 Professor Kearney characterised the antagonism between the two sectors as akin to the 'classical tragedy of the commons'. He argued that both groups needed to overcome this antagonism as the need for the two sectors to work effectively together will only increase over time:

There have always been antagonisms between the two because it is a classical tragedy of the commons. They are competing for the same resource. They are competing for the same resource and there is a limited amount of fish. The representation of anglers has been largely voluntary. There is not even a national peak body in operation at the moment for anglers nor is there a national peak body for commercial fishers. Both groups are guilty of not representing themselves appropriately or their interests appropriately and not negotiating with each other correctly. The future is going to be fraught with problems. They do have to work closer together because the resources are finite and most of them are very close to fully fished and competition is going to be more intense as populations increase.⁹⁹³

11.64 Mr Harrison agreed that the focus of the two sectors needs to shift from who gets what to advocating to ensure that there is more for all:

...the belief that there is "us and them"—the recreational sector and the commercial sector—and who gets the biggest slice of the pie and how the pie is cut up. I really do not think that is the answer. The answer is that you grow the pie, hence my reference to wetland rehabilitation. If people sat down and looked at it honestly—and I have worked on both sides of the fence, so I know—the issues that are impacting on fish stocks are not in the water, they are off-stream impacts—what happens off the water.⁹⁹⁴

11.65 Mr Byrnes told the Committee that it was his view that the current separate advisory councils need to be combined, while the trust fund expenditure committees remain as they are:

...The Recreational Fishing Advisory Council deals with advice to the Minister. The trusts are two separate bodies apart from that council. The trusts can remain with the membership and so forth and how they wish to expend their money is their business. We have a similar arrangement on the Commercial Fishing Advisory Council and we have a budget working group. So far as the two councils and peak advice to the Minister are concerned, my view is that with one resource you should have one source of advice to the Minister that takes in the lot.⁹⁹⁵

⁹⁹² Mr Harrison, Evidence, 15 June 2010, p 12; Mr Byrnes, Evidence, 19 April 2010, p 48.

⁹⁹³ Professor Kearney, Evidence, 3 September 2010, p 36.

⁹⁹⁴ Mr Harrison, Evidence, 15 June 2010, p 13.

⁹⁹⁵ Mr Byrnes, Evidence, 19 April 2010, p 48.

- 11.66** I & I advised that it was not in favour of a single advisory council as there was a need for industry specific advice. It was noted that expert cross-sector working groups are established from time to time:

It is important that specific advice on fishing related matters is provided to the Minister from various sectors and industries for example, recreational fishing, commercial fishing, indigenous fishing, charter fishing, aquaculture and conservation interests. Fisheries issues can be diverse and complex in nature. Often there are competing or conflicting issues across sectors/groups while some issues are of mutual interest. From time to time, expert cross sector working groups are established to consult on regional, ecosystem based and or specific stock issues and to develop options for future management arrangements.

Changes to the current consultative arrangements which would provide for consolidated feedback, with less individual groups providing advice direct to Government are currently a priority.⁹⁹⁶

- 11.67** Mr Adrian Wayne, Vice-President, Underwater Skindivers and Fishermen's Association, and delegate of ACoRF, was involved in two recent cross-sector working groups dealing with abalone and mulloway respectively. Mr Wayne said that traditional antagonism was overcome and the two sectors worked well together when examining a specific issue:

Those committees I sat on had recreational and commercial in them. The commercial abalone industry has never liked the recreational industry and we have never liked them because we always reckon they can take tonnes out and tonnes out where we can only take two. Yet, when they were put together with scientists, and the issue was really about preserving the abalone and nothing else, they worked very well. It was the same with mulloway.⁹⁹⁷

- 11.68** On a number of occasions throughout the Inquiry the Committee heard of examples where local joint committees had been established to improve ties between the commercial and recreational sectors. While they were generally considered to be worthwhile, these local committees invariably disbanded after some time. Mr Clarke spoke of his work to establish such a committee in the Port Stephens area:

We are all using the same puddle; we are all conservationists concerned about that puddle. Let us sit down and work it out together. That animosity exists in certain recreational fishermen, conservationists and commercial fishermen. That has got to dissipate if we are going to move forward. We have got to come to terms with that. I have purposely in this town started up an organisation called Professional and Amateur Fishers [ProAm]. Up until last year we met up to four times a year. We have round-the-table-conversation and an opportunity to get together and share information. We will have another meeting this year. It is invaluable for us to sit at the same table and talk about issues that involve all of us. We do not vote. There is no voting; it is just an information passing session. I think we are the only place in New South Wales that does that and I encourage it in other areas.⁹⁹⁸

⁹⁹⁶ Answers to written questions on notice, Mr Bryan van der Walt, Acting Manager, Recreational Fisheries Programs, Industry & Investment NSW, 5 October 2010, Question 30, p 24.

⁹⁹⁷ Mr Adrian Wayne, Vice-President, Underwater Skindivers and Fishermen's Association, and delegate of ACoRF, Evidence, 3 September 2010, p 53.

⁹⁹⁸ Mr Clarke, Evidence, 4 May 2010, p 32.

- 11.69** Mr Peter Hemmings, Member, Hat Head Bowling and Recreation Amateur Fishing Club, said that he had been a member of a similar group established in the Macleay area. His group also involved local fisheries department officers:

It is hard to do but it has been done. In the McLeay area we had a group—I forget the name but I was one of the participants as a recreational fisher—there were professional fishermen, there were oyster growers, there was Fisheries involved in that group, and it was to do with the management of the Fisheries and what goes on in our area. That worked quite successfully for some time until it just sort of drifted.⁹⁹⁹

- 11.70** Mr McEnally said that such local committees require persons committed to undertaking the coordination work, but noted that the committees will invariably fail if there is no funding to compensate or support individuals for the time they give up. Mr McEnally suggested that for such local committees to survive, the coordination and secretarial work would need to be undertaken by relevant departmental officers.¹⁰⁰⁰

Committee comment

- 11.71** The commercial and recreational fishing sectors need to engage on a more cooperative level than has occurred in the past. It has been shown, including through this inquiry, that they have many common interests and concerns and can work cooperatively when they are united in the goals they seek.
- 11.72** The commercial and recreational sectors are each pursuing the creation of their own respective independent representative body. Once these bodies are established this should create the opportunity for greater dialogue and cooperation between the two sectors. It should also be open to each to offer joint representation to the other.
- 11.73** I & I has indicated their preference that the Minister receive advice from each sector separately, and that cross-sector working groups be established when dealing with issues of mutual interest. However, some representatives from both sectors believe that most of the issues that they face are of mutual interest.
- 11.74** Many local joint committees have been established but have subsequently failed due to the lack of formal support. The Committee believes that I & I should provide more support to engender on-going cooperation and dialogue between the two sectors. The Committee therefore recommends that a permanent forum be established.
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Recommendation 38

That the NSW Government establish, and provide on-going support for, a permanent forum for the commercial and recreational fishing sectors to meet on a regular basis to discuss common issues.

⁹⁹⁹ Mr Hemmings, Evidence, 5 May 2010, p 20; see also Mr McEnally, Evidence 5 May 2010, p 24.

¹⁰⁰⁰ Mr McEnally, Evidence, 5 May 2010, p 24.

Membership of the Recreational Fishing Freshwater Trust Expenditure Committee October 2010

Committee member	Qualifications and Fishing Interests
Bruce Schumacher Chair	Chair of ACoRF and the RFSFTEC. Life member of the Fishing Clubs Association (FCA), executive member of RECFISH Australia. National and international fishing experience, offshore fishing champion, recognized fishing radio presenter, fishing journalist and weekly columnist for various newspapers and magazines.
Max Graham Region 1 (North Coast)	Experienced freshwater fisher. Fishcare volunteer. Member of Project Big Fish. Involved in the Eastern cod recovery program
Ron Butler Region 2 (Central Coast)	Experienced freshwater fisher. President of the Singleton Fly Fishing Club. Member of the Council of Freshwater Anglers. Contributor to native fish restocking program.
Ron Croker Region 3 (South Coast)	Experienced freshwater fisher. Founding member of Southern Bass Fishing Club. Current Fishcare Volunteer and member of the Berrima and District Acclimatisation Society
Ian Ward Region 4 (North inner west)	Experienced freshwater fisher and native fish breeder. Secretary of Manilla Fishing Club. Manager Manilla Fish Hatchery. Involved in restocking of north western rivers and lakes.
Tom Williams Region 5 (Central inner west)	Experienced trout fisher. Fishcare volunteer. Member of the Central Acclimatisation Society. Involved in the NSW Fisheries trout restocking program.
Debbie Lennon Region 6 (South inner west)	Lure manufacturer. Experienced freshwater fisher. Fishing events co-ordinator.
Richard Ping Kee Region 7 (North west)	Treasurer, Moree Fishing Clubs Restocking Committee. Experienced freshwater fisher. Fishing events co-ordinator. Contributor to restocking and fish monitoring programs. Member Gwydir River Catchment Committee and Gwydir River Management Board.
Kevin McKinnon Region 8 (South west)	Member, Tocumwal Angling Club. Experienced freshwater fisher. Fishing events co-ordinator. Contributor to restocking and fish monitoring programs.
Doug Joyner, Australian Fishing Trade Association	Experienced freshwater fisher both overseas and within Australia. Founding member and Executive Director of the Australian Fishing Tackle Authority (AFTA).
Peter Turnell	I & I NSW representative
Bruce Schumacher Chair	Chair of the ACoRF and of the RFFTEC. Life member of the Fishing Clubs Association (FCA), executive member of RECFISH Australia. National and international fishing experience, offshore fishing champion, recognized fishing radio presenter, fishing journalist and weekly columnist for various newspapers and magazines.

Recreational fishing saltwater regions



Membership of the Recreational Fishing Saltwater Trust Expenditure Committee October 2010

Committee member	Qualifications and fishing interests
Bruce Schumacher Chair	Chair of the ACoRF and of the RFFTEC. Life member of the Fishing Clubs Association (FCA), executive member of RECFISH Australia. National and international fishing experience, offshore fishing champion, recognized fishing radio presenter, fishing journalist and weekly columnist for various newspapers and magazines.
Brian Hutchinson Region 1 Queensland border to Evans Head	President and founding member of Southern Cross University's Unifish Fishing Club. Experienced fly, rock, beach and deep sea fisher.
Lisa Terry, Region 2 Evans Head to Woolgoolga	A champion angler and teacher of recreational fishing courses at TAFE.
John Drew Region 3 Woolgoolga to Port Macquarie	Member of the Recreational Fishing Saltwater Trust Expenditure Committee (RFSTEC). Life member and president of the Coffs Harbour Deep Sea Fishing Club, member of the NSW Amateur Fishing Club's Association.
Geoff Shelton Region 4 Port Macquarie to Seal Rocks	Extensive experience in recreational fishing, head teacher at TAFE, teaching maritime studies, Vice President of Port Macquarie Blue Water Fishing Club.
Lionel Jones Region 5 Seal Rocks to The Entrance	President and public officer for the Lake Macquarie Concerned Anglers Group, member of the Cardiff Bowling Club Fishing Club, saltwater and estuarine fishing specialist.
John Paton Region 6a The Entrance to Wollongong	Experienced gamefisher and charter boat operator, knowledge of saltwater trust funded programs. President Broken Bay Game Fishing Club.
Stuart Rhodes Region 6b The Entrance to Wollongong	Experienced Estuary, Offshore competition fisher. Fishing magazine author.
Ann Garard Region 7 Wollongong to Narooma	Charter Fishing Boat operator. Experienced saltwater angler (offshore/deep sea). Current representative on the Marine and Estuarine Recreational Charter Management Advisory Committee (since 2002).
Greg Liddel Region 8 Narooma to Victoria border	Member of the Merimbula Big Game and Lakes Angling Club with broad angling experience.
Claudette Rechtonik, Nature Conservation Council	Nature Conservation Council Representative. Experience in marine management, including fish habitat research. Tertiary qualifications in related fields.
Malcolm Poole, Recreational Fishing Alliance	Chair of the Recreational Fishing Alliance of NSW, past President of Central Coast Association of Angling Clubs and executive member of the Fishing Clubs Association of NSW for more than ten years.
John Millyard, Australian Fishing Trade Association	Treasurer of the Australian Fishing Tackle Association and participated in numerous recreational fishing committees and foundations.
John Burgess	Chief Executive Officer, President and Treasurer of Australian National Sportfishing Association (NSW). Treasurer and Public Officer of South Sydney Amateur Fishing Association. Experienced fisher (game fishing, estuary, rock, beach and underwater.

Committee member	Qualifications and fishing interests
David Jones, NSW Game Fishing Association	Extensive committee experience relating to the game fish sector at local, state and national levels. Current Treasurer of NSW GFA. Actively promotes fishing opportunities for junior anglers.
Steve Kennelly	NSW DPI representative.

Appendix 2 Marine Park Science in New South Wales – An Independent Review 2009

Professor Peter Fairweather, Flinders University, Adelaide (Chair)

Professor Colin Buxton, Tasmanian Fisheries & Aquaculture Institute, Hobart

Dr Jacqueline Robinson, University of Queensland, Brisbane

A report prepared for the Marine Parks Advisory Council, NSW, December 2009

Executive Summary

Based upon our deliberations in Sydney on November 9 to 11 2009 and various discussions around that time, the Independent Review Panel makes the following recommendations to the Marine Parks Advisory Council:

Primary Importance

1. The Strategic Framework from 2004 and Strategic Research Plan 2005-2010 need internal review and rewriting with a view to their renewal and use over 2010-15.
2. The Strategic Framework now requires a thorough internal re-evaluation of the relative emphases across different parts within it, their relative progress toward being achieved, and their priority order for the next five years.
3. The next Research Plan (for 2010-15) needs more detail to guide potential contributors to that research, monitoring and evaluation.
4. Key Research Areas addressing issues of socio-economic or heritage values need to be emphasised more so than in the past. Thus we expect that 'Socio-economic Issues', 'Indigenous and Non-indigenous Culture and Heritage', and several aspects within 'Specific Impacts' to get more overt attention during 2010-15.
5. More emphasis should be placed in the future on integrating socio-economic studies with biophysical studies to improve the effectiveness of the management of MPAs.
6. From a socio-economic perspective, non use values of Marine Parks should be considered within the next Research Plan.
7. A central part of that new Strategic Research Plan should be a more transparent undertaking to conduct research in each Marine Park and articulate how it fits into the Statewide network. Such a plan should mandate goals and a timetable for a set of "core" activities are essential to be able to describe the condition of biodiversity within the network and each Marine Park.
8. Give more emphasis to the research program for NSW Marine Parks as a whole rather than attempting to test each general hypothesis in all parks, e.g. construct a statewide database of research undertaken, datasets and key findings.
9. Complete habitat mapping across the entire NSW coast to address the CAR principles.
10. Shift from Major Priority 1 to Major Priority 2 (as detailed in the Strategic Framework) regarding the main uses of the research being done in NSW Marine Parks.
11. Clarify marine biodiversity for the wider public of NSW, focussing upon concepts, values and examples, rather than a focus upon any arguable spin-offs for fishing.

Secondary importance

1. Be more assertive about the science and other research behind the NSW Marine Park system but also acknowledge areas of uncertainty or disagreement with public, arguments.
2. Organise lists of research being done in each Marine Park around a clear strategy, e.g. into core (i.e. network-oriented) activities versus special (i.e. park-specific) cases.
3. Publicise the securing of external funding, publication of findings in the scientific literature, and appointment of scientists within each Marine Park and of Park Managers very familiar with research.
4. Focus upon removing undue delays, potential bottlenecks or any other systemic impediments to the publication of biophysical and other research done in NSW Marine Parks.
5. Articulate better the nexus between routine monitoring and specific research activities, and promote a more transparent program of activities already being done by DECCW or DII staff within Marine Parks to allow piggy-backing of student projects at minor cost to the Marine Park Authority.
6. Publish annual lists of key research questions to be tackled within each Marine Park and across the network as a way of encouraging external partnerships for research in a directive manner that mobilises interest in academia (including students), research providers and the wider community.
7. Test the key assumptions involved in using ecosystem and habitat features as a surrogate for biodiversity *per se* as a priority over the next five years.
8. Review the utility of the zonation, in particular what is gained by having sanctuary zones in ocean beach and estuarine habitats.

Tertiary importance

1. Compile species lists for each park, especially linked to community-based monitoring or the detection of climate change (including invasive species).
2. Focus upon assessing the condition of habitats and species, patterns of change (especially transience, loss or degradation), and the juxtaposition of habitats and microhabitats in relation to connectivity (among other more sophisticated scientific questions) within NSW Marine Parks.,
3. Provide better scientific documentation upon the Marine Parks Authority website, as a demonstration of an open and responsive approach in the Communication Plan for the Marine Park system in NSW.
4. Promote Marine Parks as key focal points for surveillance of the arrival of invasive species.
5. Investigate avenues to disseminate the findings from research projects through NGOs, e.g. recreational fisher organisations, to remove the implications that research is by and for government only.

Introduction

NSW has six multiple-use Marine Parks that contribute the majority of seafloor area to the statewide system of Marine Protected Areas (MPAs), along with other area-management tools like Aquatic Reserves (mainly focussed upon intertidal and estuarine areas near Sydney). This arrangement has grown and evolved since 2001 and the first five years covered by a Research Plan (Anon undated) is now coming to an end. With a statutory timeline in place now in NSW for reviewing the zoning and operation of Marine Parks, the time was right for an injection of new strategic thinking. What was needed was independent advice about the performance to date of science and research in the Parks because of the prior controversy over aspects of the Marine Parks system.

Thus, in mid-September 2009, the NSW Marine Parks Authority for the Marine Parks Advisory Council began to install an Independent Review Panel to undertake a Marine Parks Science Review for the State of NSW. Membership and Terms of Reference (see Appendix 1) for the Panel were then settled upon, hearing dates set and background material distributed. The Independent Review Panel was commissioned to give a dispassionate viewpoint about what critics and stakeholders had to say about the system. A comprehensive list of stakeholders was invited to address the Panel and fortunately most of them could (or at least sent an alternative representative).

The Independent Review Panel convened November 9 to 11 in Sydney to take testimony from relevant staff and a variety of stakeholders (Appendix 2). In addition, we considered voluminous written material both pre-existing and prepared for this review, copies of presentations made to us, and other communications out of session (mainly to clarify specific issues) in the days preceding or following the hearings. One of the main documents the Independent Review Panel used was an interim report of an incomplete review of the research Plan and recent research that was being done by the Marine Parks Science Panel (MPSP 2009); these notes were invaluable in that they represented the considered views of eminent scientists involved at all levels with the Marine Parks of NSW, even though we acknowledge that that review process was not completed.

This report of the Independent Review Panel is written for the Marine Parks Advisory Council and the public of NSW to review how the Strategic Framework (2004) and Research Plan 2005-2010 "best ensure ... the vision for research and monitoring ... is achieved". That vision is articulated in the various documents under five points:

- The locations and boundaries of Marine Parks use the best science;
- Rigour is applied in research and monitoring, with appropriate resourcing;
- Science provide accurate, timely advice to managers;
- Marine Park Authority science is integrated with other organisations; and
- The NSW public and international science community has full confidence in the use of science in NSW Marine Parks.

We also note the four priorities (2 major, 2 minor) given in the Strategic Framework (2004).

The Independent Review Panel's specific tasks were to:

1. Assess the appropriateness of the Strategic Framework and Research Plan in light of the growth of the Marine Park system and of knowledge since they were written;
2. Review the implementation effectiveness of the Strategic Framework and Research Plan;
3. Consider key stakeholder issues with the Strategic Framework and RP; and
4. Report directly to the Marine Parks Advisory Council.

Thus, our findings and recommendations encompass research priorities and gaps for 2010-15, and revisions to the Strategic Framework and Research Plan to ensure effective and efficient research and foster collaboration in the NSW Marine Parks. We trust that this review can assist in ensuring that research plays a crucial role in NSW Marine Parks over the next five years.

Appendix 1



Marine Parks Authority

Tenus of Reference

Marine Parks Science Review

◆ Purpose and Scope

The Marine Parks Authority recognises the importance of scientific information and analysis in the establishment, zoning, review and monitoring of marine parks.

The Marine Parks Advisory Council is the representative body for peak marine park stakeholders in NSW. The Council advises the Marine Parks Authority and the Ministers for Climate Change and the Environment and Primary Industries on marine parks from a statewide perspective.

The Marine Parks Authority has requested that the Marine Parks Advisory Council review the Strategic Framework for the Evaluation and Monitoring of Marine Parks in NSW - March 2004 (the 'Strategic Framework') and the NSW Marine Parks Strategic Research Plan 2005-10 (the 'Research Plan'),

The Strategic Framework sets out the priorities for research in marine parks:

- major priority 1 - selecting marine parks and their boundaries
- major priority 2 - monitoring, evaluating and modifying marine park boundaries and zoning arrangements
- supporting research - developing a comprehensive research portfolio for each marine park
- reporting research - developing a comprehensive research portfolio for each marine park.

The Research Plan guides current marine park research priorities, the research program for the system of six marine parks in NSW and the research programs for individual marine parks. It is based on the priorities set out in the Strategic Framework.

An expert-based independent review team is to prepare a report to the Marine Parks Advisory Council on the review of the Strategic Framework and Research Plan.

Review of the Strategic Framework and Research Plan is timely given the:

- establishment of large marine parks at Port Stephens-Great Lakes and Batemans
- NSW system of marine parks now includes approximately one-third of NSW marine waters, and
- commitment to review zoning plans initially after five years of operation (as set out in the *Marine Act 1997*)
- increasing awareness of the need to build resilience in marine ecosystems to help adaptation to climate change.

Objectives

The general objective of the review is to assess how the Strategic Framework and the Research Plan can best ensure that the vision for research and monitoring for NSW marine parks is achieved.

The vision set out in the Strategic Framework is:

- locations and boundaries for marine parks and the zoning arrangements within them will have been derived from thorough scientific assessments of all available information and data, to provide the best combination of areas for the conservation of biodiversity
- rigorous research and monitoring are accepted as vital components of ongoing marine park management, and are resourced accordingly
- accurate and timely scientific advice is provided to marine park managers
- scientific information systems and services are established and integrated with those of other organisations with an interest in coastal protection
- the public of NSW and the international scientific community have full confidence in the quality of the research conducted in marine parks.

Specifically, the review is to:

- assess of the appropriateness of the existing Strategic Framework and the Research Plan, in light of the growth of the marine park system and any recent developments in scientific knowledge
- review the effectiveness of implementation of the existing Strategic Framework and the Research Plan
- consider key stakeholder issues with the Strategic Framework and the Research Plan
- report on these matters directly to the Marine Parks Advisory Council.

Reporting

The independent review team will provide a written report to the Marine Parks Advisory Council by 30 November 2009. The report should make recommendations on future directions including:

- research priorities and any existing research gaps
- revisions to the Strategic Framework and the Research Plan
- an effective and efficient research program for the NSW system of marine parks
- development of collaborative research programs.

The report and recommendations should recognise the current resources available for research in marine parks and indicate priorities. The report will be provided to the Minister for Climate Change and Environment and Minister for Primary Industries by the Marine Parks Authority.

Consultation

The independent review team will consult with the Marine Parks Advisory Council's Science Sub-Committee convened by its marine science representative and including marine scientists appointed to local marine park advisory committees. The review team will also consult with key stakeholders representing a broad range of views, through invited presentations made directly to it. NSW Government staff working on marine parks will be available to address the review team.

Appendix 3 Current membership of ACoRF

Council Member	Qualifications and Fishing Interests
Bruce Schumacher Chairperson	Chair of the RFFTEC and the RFSTEC. Life member of the Fishing Clubs Association (FCA), executive member of RECFISH Australia. National and international fishing experience, offshore fishing champion, recognized fishing radio presenter, fishing journalist and weekly columnist for various newspapers and magazines.
Claudette Rechtonik	Member of the RFSTEC. Nature Conservation Council representative. Experience in marine management, including fish habitat research. Tertiary qualifications in related fields.
Ann Garard	Charter Fishing Boat operator. Experienced saltwater angler (offshore/deep sea). Current representative on the Marine and Estuarine Recreational Charter Management Advisory Committee (since 2002) and the Recreational Fishing Saltwater Trust Expenditure Committee (RFSTEC).
Neil Ryan	Owner of the recreational fishing website Sportsfish Australia. Experienced estuarine and freshwater fisher and organiser of the Windamere Golden Classic, one of the state's longest running and premier freshwater fishing tournaments.
John Humphries	Life member, NSW Council of Freshwater Anglers, Fishcare Volunteer Team Leader. Member, NSW Rod Fishers' Society.
John Clarke	Chair of the Tomaree Peninsula PRO-AM Committee. Experienced recreational fisher. Fishing media reporter, including local newspaper and radio. Co-ordinates fishing clinics for juniors and new entrants to the sport.
John Drew	Member of the Recreational Fishing Saltwater Trust Expenditure Committee (RFSTEC). Life member and president of the Coffs Harbour Deep Sea Fishing Club, member of the NSW Amateur Fishing Club's Association.
Kevin McKinnon	Member of the Recreational Fishing Freshwater Trust Expenditure Committee (RFFTEC). Member of Tocumwal Angling Club. Experienced freshwater fisher. Fishing events co-ordinator. Contributor to restocking and fish monitoring programs.
Charles Howe	Experienced recreational/commercial fisher in both estuary and offshore fisheries. Involved in fish habitat restoration projects. President of Seagulls Fishing Club. Representation on ACoRF supported by the Tweed Aboriginal Co-operative Society Limited, due to extensive consultation on issues of concern to the local indigenous community over time.

Council Member	Qualifications and Fishing Interests
Janette McLeod	Experienced estuary, beach and boat based fisher and Fishcare Volunteer. Secretary, Lake Macquarie Concerned Anglers Group Inc.
Sanchia Glaskin	Vast offshore fishing experience. Life member of Canberra Game Fishing Club. NSW Game Fishing Association delegate and Southern Zone Chairman.
Ronald Croker	Member of the Recreational Fishing Freshwater Trust Expenditure Committee (RFFTEC). Experienced freshwater angler. Has assisted DPI with trout stocking. Is founding member and president of Southern Bass Fishing Club.
Adrian Wayne	Experienced spearfisher. Chairman of NSW Spear Fishing Association. President and Sports Secretary of Sydney Metropolitan Branch of Australian Underwater Federation.
Max Castle	Life Member of Sea Bees Boating Club. Vice President and Public Officer of the Recreational Fishing Alliance of NSW. State Committee Member of Australian National Sportfishing Association (ANSA) NSW. Alternate recreational fisher on the Batemans Bay Marine Park Advisory Council. RFA recreational fishing representative on Maritime Recreational Vessels Advisory Committee. Recfish Board member.
Peter Cooley	Experienced saltwater fisher. Extensive experience in designing and delivering training courses to assist aboriginal youth, for example, Catch N Cook (Indigenous Youth Fishing Program), which aims to educate youths in life skills, teach fishing techniques and promote environmental issues.
Alistair McGlashan	Experienced fisher and photojournalist specializing in recreational fishing. Extensive media reporting on recreational fishing and catch and release techniques both nationally and internationally.
Shane Jasprizza	Experienced freshwater, estuary, beach and rock fisher. Involved in a variety of fishing projects including kids fishing clinics, fish stocking and carp fishout fishing competitions. Participated in the 2009 Future leaders in recreational fishing program. Treasurer of ANSA (NSW). Member of Canberra Fishermen's Club.
Sylvia Zukowski	Extensive research experience in the field of aquatic ecology, waterways and fisheries management. Participated in the 2009 Future leaders in recreational fishing program.

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21	Mr Barrie Fuller
22	Mr Joe Duindou
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81	Hat Head Bowling and Recreational Fishing Club
82	Warringah Anglers Club
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764	Ms Bettina Damme
765	The Nature Coast Marine Group Inc
766	Mr Raymond Agius, Ms Rita Agius, Ms Anna Agius, Mr Andrew Agius and Ms Kristen Agius
767	Mr Reg Sinclair
768	Ms Angela Lawrence
769	Ms Wendy Brown

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770	Southern Bass Fishing Club
770a	Southern Bass Fishing Club
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772	Mr Mike Felton
773	Mr Ian Ryan
774	Narooma Port Committee
775	Mr John Auer
776	Mr Peter White
777	Mr Ron Swinburn
778	Barrington Club Inc
779	Mr Neil Sewter
780	Commercial Fishermen's Co-operative Limited
781	Mr A.I. Stewart
782	Mr D Stewart
783	Mr Noel Ellwood
784	Nature Conservation Council of NSW
785	Coast and Wetlands Society Inc.
786	Sydney Fish Market
787	Mr Patrick Brennan
788	Mr Martin Issa
789	Name suppressed
790	Mr Ken Wong
791	Name suppressed
792	Mr Robert Pauling
793	Mr Mike Hollis
794	Confidential
795	Mr Simon Burtenshaw
796	Ms Katie Humphreys
797	Ms Megan Axford
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799	Mr Dennis van Someren
800	Mr Adrian Wayne

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801	Mr Paul Mclean
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805	Mr Paul Ridgley
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809	Mr John McDonald
810	Mr Dylan Collie
811	Mr Cameron Hinshelwood
812	Mr Adrian Jeloudev
813	Mr Peter Nott
814	Mr Victor Riley
815	South West Anglers Association of NSW
816	Confidential
817	Ms Sarah Werk
818	Mr Ray Milton
819	Mr Benjamin Moir
820	Dr Justin Ward
821	Mr John Olsen and Ms Jennifer Bryant
822	Mr Dominic Barrington
823	Mr Steve Tooley
824	Hunter Native Fishing Club
825	Ballina Fishermens Cooperative Limited
826	Name suppressed
827	Manly Council
828	Name suppressed
829	Narooma Charters
830	Name suppressed
831	Illawarra Flyfishing Club
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833	Mr Jim Muirhead
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835	Mr Barry Tomkinson
836	Ms Alison Hudson
837	Mr Ryan Collins
838	Ms Lyn Fowler
839	Ms Anne Gibbins
840	Name suppressed
841	Confidential
842	Ms Susan O'Carroll
843	Ms Tjoan Lie
844	Mr Geoffrey Phipps
845	Ms Vera O'Donovan
846	Mr John Walker
847	Mr Peter Woodbury
848	Mr Wayne Hogan
849	Ms Patricia Evans
850	Ms Henrietta Alexander
851	Mr James Gibson
852	Mr Hugh Wallace
853	Mr Gregory Keightley
854	Australian Conservation Foundation
855	Ms Elsie Baker
856	Mr Erik Schlogl
857	Mr Leslie Cheers
858	Mr Reg Cannon
859	Mr Steve Malcolm
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861	Mr Kerry Hole
862	Queanbeyan Anglers Club
863	Sea Bees Boating Club
864	Mr Laurence Hamilton

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865	Mr Matthew Poulton
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869	Mr George Bolliger
870	Mr S Bereston
871	Mr Wayne Smith
872	Mr L Brown
873	Mr M Spitzer
874	Mr Paul Tanti
875	Lakeside Fly Fishing Club
876	Mr C.G. Blanchard
877	Mr Maxwell Howard Frost
878	Mr John Wood
879	Ms Ingebor Fina
880	Mr Ariel Marguin
881	Ms Lisa Harrold
882	Ms Valerie Curtis
883	Mr Duncan Bourne
884	Alan A Byrnes and Sons
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887	Ms Suzanne Atteridge
888	Ms Satya Fitsimmons
889	Mr David Roe
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897	Mr Ross Venner
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900	Clarence River Fisherman's Co-operative Ltd
901	Mr Terence Chu
902	Mr Graeme Macey
903	Ms Lianne Tyler
904	Mr Ross Bowen
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906	Ms Janet Price
907	Ms Margaret Perger
908	Name suppressed
909	Mr Michael Casey
910	Ms Jill Everett
911	Mr Murray Holdom
912	Mr Richard Stanford
913	New South Wales Council of Freshwater Anglers Incorporated
914	Dr Anthony Berdoukas
915	Mr Eddie Schmidt
916	Mr Aldattin Olagas
917	NSW Seafood Industry Council
918	Hornsby Conservation Society
919	Mr Chris and Mrs Jocelyn Beale
920	Underwater Skindivers & Fishermen's Association
921	The Greens NSW
922	Mr Layton Hart
923	Mr Mark Taylor
924	Mr Peter Brettschneider
925	Newcastle District Anglers Association Inc
926	Name suppressed
927	The Fishing Party
928	Confidential

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929	Canberra Fisherman's Club
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931	OnlyOnePlanet Consulting
932	Mr Jim Morrison
933	South Coast Fishing Club Association (SCFCA)
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936	Ms Veronica Kroon
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938	Mr John Sperring
939	Mr Attila Bicskos
940	Fenwicks Marina
941	Mr Gary Adams
942	Name suppressed
943	Recreational Fishing Alliance of NSW
944	Mr Owen Mass
945	Mr Richard Sweeney
946	Ms Rosie White
947	Ms Marita Purins
948	Mr Mel Brown
949	Australian Coral Reef Society
950	Ms Sarah Jacob
951	Ms Jennifer van Rooyen
952	Ms Mary Patchett
953	Mr Jim Potts
954	Ms Dorte Planert
955	Mr Martin Planert
956	Ms Janet Harwood
957	Coastwatchers Association
958	Mr Ian Smith
959	Name suppressed
960	Mr Richard Tilzey

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961	Ms Merran Hughes
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963	Advisory Council on Recreational Fishing
964	Coffs Harbour Deep Sea Fishing Club
965	Mr Shane Jasprizza
966	Mr Richard Jermyn
967	Indigenous Fishery Consultants
968	Ms Rosette Chidiac
969	Ms Raphaella Chidiac
970	Ms Reanne Chidiac
971	Name suppressed
972	Australian Marine Conservation Society
973	Southern Rivers Catchment Management Authority
974	Mr Jack Hannan
975	Mr Oliver Wady
976	Mr Kenneth Brooke Cowden
977	Mr Kevin Bannon
978	Australian Marine Sciences Association, New South Wales Branch
979	Clarence Environment Centre
980	Ms Wendy Wales
981	Eco Divers
982	Braidwood Greens
983	Mr Mike Baber
984	Ms Julia Gilchrist
985	OceanWatch Australia
986	ECOfishers NSW
987	Ms Supanee Kaewjaikla
988	Mr Ric Cumming
989	Mr Wayne Lawton
990	Recfish Australia
991	Australian Fisheries Management Authority
992	Central Acclimatisation Society

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993	Bellingen Environment Centre Inc.
994	Mr Brad Billett
995	Ms Jennifer Crust, Mr Steve Crust, Ms Carly Crust, Mr Andrew Crust, Mr D Bird and Ms Susan Lillis
995a	Ms Jennifer Crust, Mr Steve Crust, Ms Carly Crust, Mr Andrew Crust, Mr D Bird and Ms Susan Lillis
995b	Ms Jennifer Crust, Mr Steve Crust, Ms Carly Crust, Mr Andrew Crust, Mr D Bird and Ms Susan Lillis
996	Harry's Bait and Tackle
997	Australian Aerial Patrol
998	Mr Tim Hyett
999	Mr Karl Adderley
1000	Lake Macquarie City Council
1001	Mr Max Castle
1002	SUNFISH Queensland Inc
1003	Port Stephens ECOfishers
1004	Australian National Sportfishing Association, NSW Branch
1005	Mr Peter Warren
1006	Mr Darren Higgins
1007	NSW Government
1008	Mr Graeme Shepherdson
1009	Mr Danny Chapman
1010	South Sydney Amateur Fishing Association
1011	New South Wales Aboriginal Land Council
1012	Mr Nick Della
1013	Mr Andrew Miners
1014	Mr Bob Penfold
1015	Mr Phillip Dunne
1016	Name suppressed
1017	Mr Anthony Orley
1018	Mr Simon Milne
1019	Mr Michael Lyon
1020	Mr Darren Saward

No	Author
1021	Mr David Lyon
1022	Gone Fish'n
1023	Mr Ian Scarborough
1024	Mr Martin Salter, UK Parliamentary Spokesman for Angling
1025	Mr Andrew Hestelow
1026	Mr Andrew Nye, Representative Wallaga Lake Aboriginal Community
1027	Mr Danny Chapman, Wallaga Lake Aboriginal Community
1028	Mr Shane Watts
1029	Mr Ben Pearce
1030	Mr Howard Davey
1031	Mr Brian Rourke
1032	Mr John Verano
1033	Ms Roberta Pearce
1034	Mr Greg Powell
1035	Name suppressed
1036	R G Greenwood

Appendix 5 Witnesses

Date	Name	Position and Organisation
Monday 19 April 2010 Jubilee Room, Parliament House	Mr Paul O'Connor	Principal Director, Fisheries and Compliance, NSW Department of Industry and Investment
	Mr Peter Turnell	Director, Fisheries Resource Management, NSW Department of Industry and Investment
	Mr Bryan Van der Walt	Acting Manager, Recreational Fisheries Programs, NSW Department of Industry and Investment
	Mr Michael Wright	Director, Protected Areas Policy and Programs, NSW Department of Environment, Climate Change and Water
	Mr Adrian Toovey	Manager, Aquatic Protected Areas, NSW Department of Environment, Climate Change and Water
	Mr Len Olyott	Chief Executive Officer, Australian Recreational and Sport Fishing Industry Confederation Incorporated
	Mr Grahame Turk	Managing Director, Sydney Fish Market, and Chair, New South Wales Seafood Industry Council
	Ms Mary Howard	Director, New South Wales Women's Industry Network Seafood Community
	Mr Graeme Byrnes	Manager, Alan A. Byrnes and Sons
	Mr Stan Konstantaras	President, NSW Branch, Australian National Sportfishing Association
Tuesday 27 April 2010 Room 814/815, Parliament House	Mr John Burgess	Executive Officer, Australian National Sportfishing Association
	Mr David Screen	President, Lakeside Fly Fishing Club
	Professor David Booth	Department of Environmental Sciences, University of Technology, Sydney; Councillor, Australian Marine Sciences Association, NSW Branch
	Professor Maria Byrne	Director, One Tree Island Research Station, University of Sydney; Member, Australian Marine Sciences Association, NSW Branch

Date	Name	Position and Organisation
	Dr Will Figueira	Senior Lecturer, University of Sydney; Secretary, Australian Marine Sciences Association, NSW Branch
	Professor Robert Kearney	Emeritus Professor in Fisheries Management, University of Canberra
	Mr Karl Schaerf	Honorary Secretary, Central Acclimatisation Society
	Mr Donald Barton	Member, Central Acclimatisation Society
	Mr Peter Saunders	President, Underwater Skindivers and Fishermen's Association
	Mr Adrian Wayne	Vice President, Underwater Skindivers and Fishermen's Association
	Mr Oliver Wady	Executive Committee Member, Underwater Skindivers and Fishermen's Association
	Mr Stan Konstantaras	President, NSW Branch, Australian National Sportfishing Association,
	Mr Alistair McGlashan	Fishing Journalist, McGlashan Media
Thursday 29 April 2010 Worrigee House, Nowra	Ms Diane Garrood	Regional Manager, South Coast Region, National Parks and Wildlife, NSW Department of Environment, Climate Change and Water
	Mr Matthew Carr	Manager, Jervis Bay Marine Park Authority, NSW Department of Environment, Climate Change and Water
	Mr Jim Harnwell	Editor and Publisher, <i>Fishing World</i>
	Mr Hayden Capobianco	Member, South Coast Fishing Club Association
	Mr Melven Brown	Retired Fisher
	Mr Julian Watson	Newsletter Editor, Illawarra Flyfishers' Club
	Mr Rodney Peterlin	Recreational fisher
	Mr Matthew Cross	Manager, Dolphin Watch Cruises, Jervis Bay

Date	Name	Position and Organisation
Tuesday 4 May 2010 Whitesands Conference Centre, Shoal Bay Resort and Spa, Port Stephens	Mr Bob Penfold	Recreational fisher
	Mr Stephen Dial	Moderator, <i>NewcastleFishing.com</i>
	Mr John Clarke	Recreational fisher
	Mr Max Haste	Manager, Port Stephens – Great Lakes Marine Park, NSW Department of Environment, Climate Change and Water
	Mr Robert Quirk	Hunter Regional Manager, National Parks and Wildlife Service, NSW Department of Environment, Climate Change and Water
	Mr Leslie Cheers	Commercial fisher
	Mrs Kathleen Cheers	Commercial fisher
	Mr Kelvin Wynn	Commercial fisher
	Mr Peter Hughes	Junction Inn Fishing Club
	Mr Bruce Mackay	President, Port Stephens ECOfishers Incorporated
Wednesday 5 May 2010 Ivan Livermore Stand, Port Macquarie Race Club, Port Macquarie	Mr Robert Smith	Chairman, The Fishing Party
	Mr Richard Hennelly	Research Officer, The Fishing Party
	Mr Peter Hemmings	President, Hat Head Bowling and Recreation Amateur Fishing Club
	Mr Stanley Britten	Vice President, Hat Head Bowling and Recreation Amateur Fishing Club
	Mr Lawrence McEnally	Director, Macleay River District Fishermen's Co-operative
	Mr Ray Robinson	President, North Haven Bowling Club Fishing Club
	Mr Geoff Williams	Member and Treasurer, Lake Cathie Bowling Club Fishing Club
	Mr Bill Judd	Member, Laurieton United Servicemen's Club Fishing Club
	Mr John O'Rafferty	Recreational fisher
	Mr Maxwell Frost	Recreational fisher

Date	Name	Position and Organisation
Wednesday 26 May 2010 Comfort Inn, Lincoln Downs, Batemans Bay	Dr Brendan Kelaher	Manager, Batemans Marine Park, NSW Department of Environment, Climate Change and Water
	Mr Timothy Shepherd	Regional Manager, Far South Coast National Parks and Wildlife Service, NSW Department of Environment, Climate Change and Water
	Mr Mark Fleming	Vice President, Coastwatchers Association
	Ms Jennifer Edwards	President, The Nature Coast Marine Group Incorporated
	Mr Richard Cumming	Southern Marine Park Delegate, Underwater Skindivers and Fishermen's Association
	Dr Philip Creagh	Chair, Narooma Port Committee
	Mr Richard Tilzey	Retired Fisheries Scientist and member, Narooma Port Committee
	Ms Marion Stockman	Owner, Harry's Bait and Tackle
	Mr Ian H Smith	Recreational Fishing Representative, Batemans Marine Park Advisory Committee
	Mr David Clark	President, Narooma Sporting and Services Fishing Club
	Mr John Moore	Member, Narooma Sporting and Services Fishing Club
	Mr Brett Miners	Landscape Manager, Southern Rivers Catchment Management Authority
Thursday 27 May 2010 Griffith Council Chambers, Griffith	Mr Peter Grant	Secretary, Yenda Hotel Fishing Club
	Mr Tony Kelly	Member, Yenda Hotel Fishing Club
	Mr Colin Wood	Member, Yenda Hotel Fishing Club
	Mr Graeme Hurst	Secretary, Northside Leagues Club Fishing Club
	Mr Jeffery Pagett	Committee Member, Northside Leagues Club Fishing Club
	Mr Peter Craig	Recreational fisher
	Mr Tim Becroft	President, Tocomwal Angling Club
	Mr Christopher Beale	President, South West Anglers Association
	Mr Terry Maloney	Secretary, South West Anglers Association

Date	Name	Position and Organisation
	Mr Jim Muirhead	Member, South West Anglers Association
	Mr Cameron Westaway	Senior Fisheries Manager, Inland, NSW Department of Industry and Investment
	Mr Greg Davis	President, Canberra Fisherman's Club
	Mr Anthony Heiser	Member, Canberra Fisherman's Club
Tuesday 15 June 2010 Grafton Community and Function Centre, Grafton	Mr Dan Bode	Open water Kayak angler
	Mr John Harrison	Executive Officer, Professional Fishermen's Association
	Mr Scott Flynn	Committee Member, Big River Bass Fly Fishing Club Incorporated
	Mr Mark Thompson	Treasurer, Big River Bass Fly Fishing Club Incorporated
	Mr Peter Corlis	Catchment Coordinator, Northern Rivers Catchment Management Authority
	Ms Nicole Strehling	Catchment Officer (Coastal and Marine), Northern Rivers Catchment Management Authority
	Mr David Anderson	Chair, Clarence River Fishermen's Cooperative
	Mr Alan Jeffery	Regional Manager, North Coast, NSW Department of Environment, Climate Change and Water
	Mr Andrew Page	Manager, Cape Byron Marine Park, NSW Department of Environment, Climate Change and Water
	Mr Hamish Malcolm	Research Officer, Solitary Islands Marine Park, NSW Department of Environment, Climate Change and Water
	Mr Geoff Parker	Fisheries and Environmental Spokesman, Coffs Harbour Deep Sea Fishing Club
	Mr Ken Thurlow	Chief Executive Officer, ECOfishers New South Wales
	Mr John Williams	Recreational angler

Date	Name	Position and Organisation
Monday 30 August 2010 Rooms 814/815, Parliament House	Mr Ben Birt	Marine Conservation Officer, Nature Conservation Council of New South Wales
	Mr Martin Salter	UK Parliamentary Spokesman for Angling (2002 – 2010)
	Mr Roy Privett	General Manager, Boating Industry Association of New South Wales Limited
	Mr Doug Joyner	Executive Officer, Australian Fishing Trade Association
	Mr Malcolm Poole	Chair, Recreational Fishing Alliance of New South Wales
	Mr Steven Samuels	Vice President, New South Wales Council of Freshwater Anglers Incorporated
	Mr Dave Thomas	Founder and President, Eco Divers Incorporated
	Ms Kait McManus	Media Editor, Eco Divers Incorporated
	Mr Jack Tait	President, Coastal Rights Association
	Mr Danny Chapman	Community Person
	Mr Andrew Nye	Indigenous fisher
Mr Tom Butler	Indigenous fisher; Nye Brothers fishing Company	
Mr Andrew Hestelow	Recreational fisher	
Friday 3 September 2010 Rooms 814/815, Parliament House	Mr Michael Wright	Director, Protected Areas Policy and Programs, NSW Department of Environment, Climate Change and Water
	Mr Adrian Toovey	Manager, Aquatic Protected Areas Section, NSW Department of Environment, Climate Change and Water
	Mr Paul O'Connor	Principal Director, Fisheries and Compliance, NSW Department of Industry and Investment
	Mr Peter Turnell	Director, Fisheries Resource Management, NSW Department of Industry and Investment
	Mr Bryan van der Walt	Acting Manager, Recreational Fisheries Programs, NSW Department of Industry and Investment

Date	Name	Position and Organisation
	Dr Kate Wilson	Executive Director, Scientific Services, NSW Department of Environment, Climate Change and Water
	Professor Robert Kearney	Emeritus Professor of Fisheries, University of Canberra
	Mr Darren Higgins	Accreditation Officer, Underwater Skindivers and Fishermen's Association
	Mr Adrian Wayne	Vice President, Underwater Skindivers and Fishermen's Association; Skindivers representative Advisory Council on Recreational Fishing
	Mr Max Castle	Vice President and Life member, Sea Bees Boating Club Incorporated; Member Advisory Council on Recreational Fishing
	Mr Ashely Love	President, Coffs Harbour Branch, National Parks Association of NSW

Appendix 6 Tabled documents

Monday 19 April 2010

Public Hearing, Jubilee Room, Parliament House

1. Supplementary material to NSW Government Submission Reference: 1007 - Part 1 and Part 2', *tendered by Mr Adrian Toovey, Manager, Aquatic Protected Areas, NSW Department of Environment, Climate Change and Water (DECCW)*
2. Document, 'NSW Seafood Production', *tendered by Mr Grabame Turk, Managing Director, Sydney Fish Market, and Chair, New South Wales Seafood Industry Council*
3. DVD, 'Don't put your life on the line', *tendered by Mr Stan Konstantaras, President, NSW Branch Australian National Sportfishing Association*
4. Document, 'Attachments to be presented to the Legislative Council Select Committee on Recreational Fishing', *tendered by Mr David Screen, President, Lakeside Fly Fishing Club.*

Tuesday 27 April 2010

Public Hearing, Room 814/815, Parliament House

1. Document, 'Reserves 'win-win' for fish and fishermen' – *tendered by Professor Maria Byrne, Director, One Tree Island Research Station, University of Sydney; Member, Australian Marine Sciences Association, NSW Branch*
2. Document, 'Adaptive management of the Great Barrier Reef: A globally significant demonstration of the benefits of networks of marine reserves' – *tendered by Professor Maria Byrne, Director, One Tree Island Research Station, University of Sydney; Member, Australian Marine Sciences Association, NSW Branch*
3. Document, 'Exploited reefs protected from fishing transform over decades into conservation features otherwise absent from seascapes' - *tendered by Professor Maria Byrne, Director, One Tree Island Research Station, University of Sydney; Member, Australian Marine Sciences Association, NSW Branch*
4. List of scientific research publications related to marine protected areas, marine reserves and marine sanctuaries – *tendered by Professor Maria Byrne, Director, One Tree Island Research Station, University of Sydney; Member, Australian Marine Sciences Association, NSW Branch*
5. Document, 'The Guide to Spearfishing in New South Wales' – *tendered by Mr Peter Saunders, President, Underwater Skindivers & Fishermen's Association.*

Thursday 29 April 2010

Public Hearing, Worrigee House, Nowra

1. Document, 'Zoning Plan Users Guide, Jervis Bay Marine Park' – *tendered by Ms Diane Garrood, Regional Manager, South Coast Region, National Parks and Wildlife, NSW (DECCW)*
2. Document, 'The efficacy of sanctuary areas for the management of fish stocks and biodiversity in WA Waters, Fisheries Research Report 169, 2010' – *tendered by Mr Jim Harnwell, Editor and Publisher, Fishing World*
3. Series of documents, including 'Co-management: Managing Australia's fisheries through partnership and delegation – Report of the FRDC's national working group for the Fisheries Co-management Initiative – project no. 2006/068 - *tendered by Mr Melven Brown, Retired fisher.*

Tuesday 4 May 2010

Public Hearing, Whitesands Conference Centre, Shoal Bay Resort and Spa, Port Stephens

1. Opening statement, 'Presentation by Bob Penfold: NSW Government inquiry into recreational fishing in NSW', *tendered by Mr Bob Penfold, Recreational fisher*
2. Copy of the editorial from *NSW Fishing Monthly*, May 2010, *tendered by Mr Bob Penfold, Recreational fisher*
3. CDs entitled 'Fishing Lake Macquarie – the Ultimate Guide' and 'Swansea offshore' – *tendered by Mr Stephen Dial, Moderator, NewcastleFishing.com*
4. Correspondence with Public Affairs Officer-Strategy, Policy and Communication of Industry & Investment NSW – *tendered by Mr Stephen Dial, Moderator, NewcastleFishing.com*

5. Images of 'Notice to map users' and other public notice signs – *tendered by Mr Stephen Dial, Moderator, NewcastleFishing.com*
6. Map, 'Free electronic map of marine parks' – *tendered by Mr Stephen Dial, Moderator, NewcastleFishing.com*
7. Document, 'Broughton Islanders' – *tendered by Mr John Clarke, Recreational fisher*
8. Document listing issues relevant to the Inquiry – *tendered by Mr John Clarke, Recreational fisher*
9. Document, 'Recreational fishing guide – Port Stephens – Great Lakes Marine Park' – *tendered by Mr Max Haste, Manager, Port Stephens – Great Lakes Marine Park, NSW DECCW*
10. Document, 'Port Stephens – Great Lakes Marine Park – Zoning Plan User Guide' – *tendered by Mr Max Haste, Manager, Port Stephens – Great Lakes Marine Park, NSW DECCW*
11. Document, 'Defences for the possession of fishing equipment in marine park sanctuary zones' – *tendered by Mr Max Haste, Manager, Port Stephens – Great Lakes Marine Park, NSW DECCW*
12. Two images of fishing activity alongside sanctuary zone signs – *tendered by Mr Max Haste, Manager, Port Stephens – Great Lakes Marine Park, NSW DECCW*
13. Table, 'Approximate areas and percentages of various habitat types from all zones within the PSGLMP 9/10/07' – *tendered by Mr Max Haste, Manager, Port Stephens – Great Lakes Marine Park, NSW DECCW*
14. Document, 'Pathological assessment of mullet and flathead from Smiths Lake – March 2010', DigFish Services Report: DF 10-03, 22 April 2010 – *tendered by Mrs Kathleen Cheers, Commercial fisher*
15. A survey of daytime recreational fishing during the annual period, March 1999 to February 2000, in Lake Macquarie, New South Wales, August 2003, NSW Fisheries Final Report Series, Report No 52 – *tendered by Mrs Kathleen Cheers, Commercial fisher.*

Wednesday 5 May 2010

Public Hearing, Ivan Livermore Stand, Port Macquarie Race Club, Port Macquarie

1. Copy of a 15 October 2006 entry to the online Ausfish Australian Angling Forums entitled 'The real truth emerging in NSW' – *tendered by Mr Robert Smith, Chairman, The Fishing Party*
2. Article from the Manning River Times, 'Fishing in sanctuary zones' – *tendered by Mr Peter Hemmings, President, Hat Head Bowling and Recreation Amateur Fishing Club*
3. Document, 'Recreational Anglers Stakeholders Group – Wallis Lake Submission' – *tendered by Mr Maxwell Frost, Recreational fisher.*

Wednesday 26 May 2010

Site Visit, Aboriginal Land Council Offices, Mogo

1. Copy of an email dated 24 May 2010 from the A/Director, Policy and Research, New South Wales Land Council to all Zone Directors concerning Interim Provisions for Aboriginal Fishers in NSW, *tendered by Mr Danny Chapman, Aboriginal Land Council Offices, Mogo.*

Wednesday 26 May 2010

Public Hearing, Comfort Inn, Lincoln Downs, Batemans Bay

1. Copies of twelve local media articles regarding fishing in the Batemans Marine Park and tourism in the Eurobodalla Shire – *tendered Mr Timothy Shepherd, Regional Manager, Far South Coast National Parks and Wildlife Service, NSW DECCW*
2. Document, 'Draft Zoning Plan Overview and Submission Form, Batemans Marine Park' – *tendered by Mr Timothy Shepherd, Regional Manager, Far South Coast National Parks and Wildlife Service, NSW DECCW*
3. Graph representing 'Tourism Trends Eurobodalla Shire 1999-2009' – *tendered by Mr Timothy Shepherd, Regional Manager, Far South Coast National Parks and Wildlife Service, NSW DECCW*
4. Confidential document – *tendered by Mr Ric Cumming, Southern Marine Park delegate, Underwater Skindivers and Fishermen's Association (USFA)*
5. Report, 'Competition Spearfishing Report from the Jervis Bay Marine Park: Report to the Jervis Bay Marine Park Steering Committee, JPMP Advisory Committee and the JPMP spearfishing working group', March 2007 – *tendered by Mr Richard Cumming, Southern Marine Park delegate, USFA*

6. Table representing the amount of each habitat type contained within each zone type in the Batemans Marine Park Draft Zoning Plan – *tendered by Mr Richard Cumming, Southern Marine Park delegate, USFA*
7. Map displaying the boundaries of the various NSW Coastal Bioregions and the location of Marine Parks, Marine areas, aquatic reserves and Commonwealth MPAs – *tendered by Mr Richard Cumming, Southern Marine Park delegate, USFA*
8. Confidential document – *tendered by Mr Ric Cumming, Southern Marine Park delegate, USFA*
9. Confidential document, *tendered by Dr Philip Creagh, Chair, Narooma Port Committee*
10. Documents, 'Fish Friendly Farms 'Penuca' and 'Wangalee' – *tendered by Mr Brett Miners, Landscape Manager, Southern Rivers Catchment Management Authority*
11. Document, 'Demonstration Farm open morning 'Penuca' – *tendered by Mr Brett Miners, Landscape Manager, Southern Rivers Catchment Management Authority (CMA).*

Thursday 27 May 2010

Public Hearing, Griffith Council Chambers, Griffith

1. Opening statement, 'Review of Set Line Rules' – *tendered by Mr Peter Grant, Secretary, Yenda Hotel Fishing Club.*

Tuesday 15 June 2010

Public Hearing, Grafton Community and Function Centre, Grafton

1. Document, 'Submission to Select Committee on Recreational Fishing by Big River Bass Fly Fishing Club: Additional information to submission number 728' – *tendered by Mr Scott Flynn, Committee Member, Big River Bass Fly Fishing Club Incorporated*
2. PowerPoint presentation on Northern Rivers Catchment Management Authority work regarding river, estuary and marine health – *tendered by Mr Peter Corlis, Catchment Coordinator, Northern Rivers CMA*
3. Information brochure, 'Northern Rivers Catchment Management Authority: Maintaining our catchments – Sustaining our future' – *tendered by Mr Peter Corlis, Catchment Coordinator, Northern Rivers CMA*
4. Information brochure, 'Northern Rivers Catchment Management Authority: Partnership Project: Clarence River Fish Track: Effects of flows and barriers on the distribution of freshwater fish in the Clarence River system' – *tendered by Mr Peter Corlis, Catchment Coordinator, Northern Rivers CMA*
5. Case study information sheet, 'Implementation of best practice commercial fishing gear technology' – *tendered by Mr Peter Corlis, Catchment Coordinator, Northern Rivers CMA*
6. A suite of documents entitled 'Draft Planning Scheme Cape Byron Marine Park' – *tendered by Mr Andrew Page, Manager, Cape Byron Marine Park, NSW DECCW*
7. Opening statement – *tendered by Mr Hamish Malcolm, Research Officer, Solitary Islands Marine Park, NSW DECCW*
8. Document, Solitary Islands and Jervis Bay Marine Parks: Research Project Summaries 2002 – 2009 – *tendered by Mr Hamish Malcolm, Research Officer, Solitary Islands Marine Park, NSW DECCW*
9. Document, 'Rapid Assessment of Rocky Shore Biodiversity in the Cape Byron Region', Stephen D A Smith & Kathryn A James; August 2003 – *tendered by Mr Ken Thurlow, Chief Executive Officer, ECOfishers NSW*
10. Map, 'Cape Byron Marine Park Final Zoning Plan: To come into effect in April 2006' – *tendered by Mr Ken Thurlow, Chief Executive Officer, ECOfishers NSW*
11. Map, 'Seabed types identified from sidescan sonar images and towed underwater video camera' – *tendered by Mr Ken Thurlow, Chief Executive Officer, ECOfishers NSW*
12. Document reflecting the opinions of recreational anglers expressed to the author over six-year period – *tendered by Mr John Williams, Recreational angler*
13. Document highlighting issues with current fisheries system – *tendered by Mr John Williams, Recreational angler.*

Monday 30 August 2010

Public Hearing, Room 814/815, Parliament House, Sydney

1. Report, 'Australia's Marine Protected Areas: Challenging times ahead', Ernest and Young, September 2006 – *tendered by Mr Roy Privett, General Manager, Boating Industry Association of New South Wales Limited*
2. Photographs (16), depicting fishing activity and fishing debris in Clifton Garden Baths – *tendered by Mr Dave Thomas, Founder and President, Eco Divers Incorporated*
3. DVD entitled 'The truth of Jervis Bay Marine Park Science Revealed' – *tendered by Mr Jack Tait, President, Coastal Rights Association*
4. Confidential document – *tendered by Mr Doug Joyner, Executive Officer, Australian Fishing Trade Association.*

Friday 3 September 2010

Public Hearing, Room 814/815, Parliament House, Sydney

1. Copy of newspaper article entitled, Marine parks will preserve recreational fishers' future', Northern Star newspaper, 20 October 2007 – *tendered by Professor Robert Kearney, Emeritus Professor of Fisheries, University of Canberra*
2. Copy of article entitled, Pollutant effected on biodiversity and recruitment of aquatic animals, Dr B K Diggles, Aquatic animal health specialist – *tendered by Professor Robert Kearney, Emeritus Professor of Fisheries, University of Canberra*
3. Text of letter from Professor Kearney to Editor, Coffs Advocate, dated 5 July 2010 regarding published letter dated 10 June 2010 from Deputy Director General, Department of Environment, Climate Change and Water – *tendered by Professor Robert Kearney, Emeritus Professor of Fisheries, University of Canberra*
4. Booklet entitled, The Guide to Spearfishing in New South Wales: An essential handbook written by divers for divers, Australian Government, Department of Agriculture, Fisheries and Forestry, USFA, 2009 – *tendered by Mr Adrian Wayne, Vice President, Underwater Skindivers and Fisherman's Association; Skindivers representative Advisory Council on Recreational Fishing (ACoRF)*
5. Underwater membership application form – *tendered by Mr Adrian Wayne, Vice President, Underwater Skindivers and Fisherman's Association; Skindivers representative ACoRF*
6. The New South Wales Spearfishing Accreditation Questionnaire, Version 2.0, May 2010 – *tendered by Mr Adrian Wayne, Vice President, Underwater Skindivers and Fisherman's Association; Skindivers representative ACoRF*
7. Bumper sticker, Spearfishing First in Sustainability – *tendered by Mr Adrian Wayne, Vice President, Underwater Skindivers and Fisherman's Association; Skindivers representative ACoRF*
8. Copy of discussion notes for 11 November 2009, Marine Parkes Advisory Council meeting regarding Strategic framework for evaluation and monitoring of marine parks in NSW and NSW marine parks strategic research plan 2005-10 review – *tendered by Mr Max Castle, Vice President and Life member, Sea Bees Boating Club Incorporated; Member of ACoRF*
9. Copy of instructions and diagrammatic guide to trying knots spider hitch and cat's paw – *tendered by Mr Max Castle, Vice President and Life member, Sea Bees Boating Club Incorporated; Member of ACoRF*
10. Copy of document entitled, "Prospect Reservoir" A freshwater recreational fishery in the heart of Sydney – *tendered by Mr Max Castle, Vice President and Life member, Sea Bees Boating Club Incorporated; Member of ACoRF*
11. Copy of Marine Park Authority acknowledgement, release and indemnity form – *tendered by Mr Max Castle, Vice President, Sea Bees Boating Club Incorporated; Member of ACoRF*
12. Copy of eleven images of Meroo Lake Recreational Fishing Haven – *tendered by Mr Max Castle, Vice President and Life member, Sea Bees Boating Club Incorporated; Member of ACoRF*
13. Copy of media article, Scientist tae a stick to blue tick that flags sustainable fisheries, Sydney Morning Herald, 3 September 2010 – *tendered by Ms Ashley Love, President Coffs Harbour Branch, National Parks Association NSW*
14. Copy of media article, Human seafood label cell, Sydney Morning Herald, 3 September 2010 – *tendered by Ms Ashley Love, President Coffs Harbour Branch, National Parks Association NSW*
15. Copy of media article, Fish stocks recovering in Moreton Bay green zones, ABC news, 2 September 2010 – *tendered by Ms Ashley Love, President Coffs Harbour Branch, National Parks Association NSW*
16. Copy of media article, Economic value of the environment, Tasmanian Times, 31 August 2010 – *tendered by Ms Ashley Love, President Coffs Harbour Branch, National Parks Association NSW*
17. Copy of media article, Saving global fish stocks would cost 20 million jobs, says UN, Businessgreen.com, 23 August 2010 – *tendered by Ms Ashley Love, President Coffs Harbour Branch, National Parks Association NSW.*

Appendix 7 Answers to questions on notice

The Committee received answers to questions on notice from:

Batemans Marine Park

Batemans Marine Park Advisory Committee

Big River Bass Fly Fishing Club

Boating Industry Association of New South Wales Limited

Mr Dan Bode, Kayak fisher

Camden Haven Fishing Clubs

Canberra Fisherman's Club

Cape Byron Marine Park and Solitary Islands Marine Park

Coastal Rights Association

Central Acclimatisation Society

Mr Leslie Cheers, Commercial fisher

Mr John Clarke, Recreational fisher

Coastwatchers Association

Coffs Harbour Deep Sea Fishing Club

Mr Ric Cumming, Recreational fisher

ECOfishers New South Wales

Mr Max Frost, Recreational fisher

Port Stephens - Great Lakes Marine Park

Mr John Harrison, Professional Fisherman's Association

Hat Head bowling and Recreation Club Amateur Fishing Club

Jervis Bay Marine Park

Professor Robert Kearney, Emeritus Professor, University of Canberra

McGlashan Media

Narooma Port committee

National Parks Association of NSW, Coffs Harbour Branch

Nature Conservation Council of NSW

NewcastleFishing.com

Northside Leagues Fishing Club

North Coast Region, NSW Department of Environment, Climate Change and Water

NSW Department of Environment, Climate Change and Water, Protected Area Policy and Programs

New South Wales Aboriginal Land Council

New South Wales Council of Freshwater Anglers

NSW Seafood Industry Council

Mr John O'Rafferty, Recreational fisher

Mr Bob Penfold, Recreational fisher

Professional Fishermen's Association

Recfish Australia Incorporated

NSW Department of Industry and Investment, Recreational Fisheries Program

Recreational fishing Alliance of NSW

South West Anglers Association

Sydney Fish Market

The Australian Fishing Trade Association Incorporated

The Nature Coast Marine Group Incorporated

Underwater Skindivers and Fishermen's Association

Mr John Williams, Recreational fisher

Women's Industry Network Seafood Community

Yenda Hotel Fishing Club

Appendix 8 Minutes

Minutes No. 1

Monday 30 November 2009

Room 1136, Parliament House, Sydney, at 12.00pm

1. Members present

Mr Robert Brown (*Chair*)
 Mr Tony Catanzariti (*Deputy Chair*)
 Mr Ian Cohen
 Mr Rick Colless
 Mr Charlie Lynn
 Ms Christine Robertson
 Mr Mick Veitch

2. Chair opened meeting

The Chair tabled the resolution of the Legislative Council of Tuesday 24 November 2009 establishing the Committee and made some opening remarks.

3. Procedural motions

Resolved, on the motion of Mr Cohen: That the following procedural motions be adopted:

- That the Committee authorises the sound and television broadcasting of its public proceedings, in accordance with the resolution of the Legislative Council.
- That the Secretariat be empowered to publish transcripts of evidence taken at public hearings, in accordance with section 4 of the Parliamentary Papers (Supplementary Provisions) Act 1975 and under the authority of standing orders 223 and 224.
- That media statements on behalf of the Committee be made only by the Chair.
- That arrangements for inviting witnesses be left in the hands of the Chair and the Secretariat after consultation with the Committee.

4. Conduct of inquiry

Resolved, on the motion of Mr Veitch: That the Committee note the terms of reference referred by the House and commence the inquiry.

The Committee noted the draft indicative timeline prepared by the Secretariat in consultation with the Chair and discussed adjustments to the timeline.

Resolved, on the motion of Mr Colless: That the closing date for submissions be Friday 19 March 2010.

Resolved, on the motion of Mr Colless: That a press release announcing the inquiry and the call for submissions be sent to all media outlets in NSW, at 2pm Monday 30 November 2009.

Resolved, on the motion of Ms Robertson: That advertisements announcing the inquiry and calling for submissions be placed in The Sydney Morning Herald and The Daily Telegraph and the major regional newspapers as soon as practicable and be emailed to relevant recreational fishing websites.

Resolved, on the motion of Mr Catanzariti: That the Chair write to the stakeholders identified by the Secretariat in consultation with the Chair, as well as any additional stakeholders identified by Committee members by Friday 11 December 2009, informing them of the inquiry and inviting submissions.

Resolved, on the motion of Mr Cohen: That the Committee conduct hearings in Sydney and regional areas for the purpose of evidence gathering for this inquiry and no public forums, and that the hearings be held primarily in the months of April to June, with additional hearings in the first and last weeks of the winter recess if necessary.

Resolved, on the motion of Mr Cohen: That the Secretariat in consultation with the Chair prepare a draft hearing schedule setting out the approximate dates and locations of hearings and circulate the schedule to Committee Members for comment during the week of 7-11 December 2009.

5. Adjournment

The Committee adjourned at 12.25pm until Monday 29 March 2010 at 2.30pm.

Rachel Callinan

Clerk to the Committee

Minutes No. 2

Monday 29 March 2010

Select Committee on Recreational Fishing

Room 1136, Parliament House, Sydney, at 2.30pm

1. Members present

Mr Brown (*Chair*)

Mr Catanzariti (*Deputy Chair*)

Mr Lynn

Ms Robertson

Ms Voltz

2. Apologies

Mr Cohen

Mr Colless

3. New member

The Chair noted the resolution of the House of 9 March 2010, discharging the Hon Mick Veitch MLC from the Committee and appointing the Hon Lynda Voltz MLC to the Committee.

4. Previous minutes

Resolved, on the motion of Ms Robertson: That draft Minutes No. 1 be confirmed.

5. Correspondence

The Committee noted the following item of correspondence received:

- 25 February 2010 - To Chair from the Hon Steve Whan MP, Minister for Primary Industries advising that the Committee's request for a government submission has been referred for appropriate action.

6. Submissions**6.1 Publication of submissions**

Resolved, on the motion of Mr Catanzariti: That, according to section 4 of the *Parliamentary Papers (Supplementary Provisions) Act 1975* and Standing Order 223(1), the Committee authorise the publication of Submission No. 1-104, 141, 156, 157, 159a, 160, 161, 162, 164, 165, 166, 188, 349, 414, 426, 427, 440, 441, 442, 474, 493, 499, 513, 522, 528, 529, 532, 533, 534, 535, 537, 627, 631, 634, 638, 639, 640, 641, 642, 646, 649, 657, 658, 786, 789, 802, 803, 804, 805, 812, 814, 549, 552, 579, 580,589, 597, 600,608, 819, 820, 823, 824, 825, 826, 827, 828, 829, 831, 832, 833, 848, 854, 857, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 884, 891, 896,899, 900, 914, 915, 916, 917, 918, 919, 920, 921, 924, 925, 926 and 927.

Resolved, on the motion of Ms Voltz: That, according to section 4 of the *Parliamentary Papers (Supplementary Provisions) Act 1975* and Standing Order 223(1), the Committee authorise the publication of Submission No. 130, 130a, 657, 675, 683, 697, 736, 737, 738, 739, 741, 789, 791, 808, 826, 830, 840, 885, 894, 926, 935, 959 and 971 with names and identifying details suppressed at the request of the authors.

Resolved, on the motion of Ms Voltz: That Submission No. 390, 452, 474, 505, 508, 509, 512, 515, 541, 562, 587, 613, 623, 633, 645, 647, 678, 762, 794, 816, 841, 928, 942 and the attachment to 967 be kept confidential at the request of the submission maker.

Resolved, on the motion of Ms Voltz: That, according to section 4 of the *Parliamentary Papers (Supplementary Provisions) Act 1975* and Standing Order 223(1), the Committee authorises the partial publication of Submission No. 885, with adverse mention on page 11 removed.

Resolved, on the motion of Ms Voltz: That the Secretariat contact the authors of Submission No. 457 and 859 to discuss their use of offensive language to advise them that submissions are generally made public and to provide

them with the opportunity to resubmit their submissions with the offensive language removed and that in the alternative the submissions be published with the offensive words deleted.

Resolved, on the motion of Ms Voltz: That the author of Submission No. 1000 be advised that the Committee did not agree to the request for partial confidentiality and that, as the submission was from a local government authority, the Committee requests that the submission be re-submitted and endorsed by an appropriate senior officer.

Resolved, on the motion of Mr Catanzariti: That according to section 4 of the *Parliamentary Papers (Supplementary Provisions) Act 1975* and Standing Order 223(1), the Committee authorises the publication of any additional submissions received, subject to their review by the Secretariat to ensure that any submissions containing adverse mention issues or requests for confidentiality or name suppression are identified to be dealt with separately by the Committee at a later date.

Resolved, on the motion of Mr Lynn: That the Secretariat place a selection of submissions on the Committee's webpage, drawing primarily from representative organisations and including an example of each of the proformas received.

7. Hearings

7.1 Hearing schedule and travel arrangements

Resolved, on the motion of Mr Catanzariti: That the Committee hold public hearings on:

- Monday 19 April 2010 - Parliament House Sydney
- Tuesday 27 April 2010 - Parliament House, Sydney
- Thursday 29 April 2010 - Nowra
- Tuesday 4 May 2010 - Port Stephens
- Wednesday 5 May 2010 - Port Macquarie
- Wednesday 26 May 2010 - Batemans Bay
- Thursday 27 May 2010 - Griffith
- Tuesday 15 June 2010 - Grafton
- Tuesday 29 June 2010 - Parliament House, Sydney
- Monday 30 August 2010 - Parliament House, Sydney.

Resolved, on the motion of Ms Robertson: That the Committee authorise the requested expenditure for charter flights, mini-van hire, accommodation and venue and equipment hire to conduct regional hearings, as set out in the attachment to the meeting papers (and attached to these minutes).

7.2 Witnesses

Resolved, on the motion of Ms Robertson: That the draft list of potential witnesses prepared by the Secretariat in consultation with the Chair (and attached to these minutes) be approved and that the Secretariat approach those identified regarding their willingness to appear and give evidence.

8. Adjournment

The Committee adjourned at 2.50 pm until Monday 19 April 2010 at 9.15 pm in the Jubilee Room (public hearing).

Rachel Callinan

Clerk to the Committee

Minutes No. 3

Monday 19 April 2010

Select Committee on Recreational Fishing

Jubilee Room, Parliament House, Sydney, at 9.00 am

1. Members present

Mr Brown (Chair)

Mr Catanzariti (Deputy Chair)

Mr Cohen

Mr Colless

Mr Lynn (after item 4)
Ms Robertson (after item 2)
Ms Voltz

2. Previous minutes

Resolved, on the motion of Mr Catanzariti: That draft Minutes No. 2 be confirmed.

3. Correspondence

The Committee noted the following item of correspondence received:

- 15 April 2010: letter from Mr Adrian Piccoli, Member for Murrumbidgee enclosing petitions from 31 citizens regarding the banning of the use of set lines in inland rivers in NSW.
- 16 April 2010: email from the Manager, Aquatic Protected Areas, Department of Environment, Climate Change and Water to Secretariat, requesting that the Committee be made aware of the request for government representatives from Industry and Investment NSW and Environment Climate Change and Water to appear jointly before the Committee at the hearing on Monday 19 April 2010.
- 19 April 2010: email from Mr Al McGlashan, requesting approval to film his scheduled appearance before the Committee at the public hearing on Tuesday 27 April.

4. Publication of submissions

Resolved, on the motion of Mr Catanzariti: That, according to section 4 of the Parliamentary Papers (Supplementary Provisions) Act 1975 and Standing Order 223(1), the Committee authorise the publication of Submission Nos. 1000 – 1012.

5. Inquiry into recreational fishing

5.1 Deadline for return of questions taken on notice by witnesses

Resolved, on the motion of Mr Colless: That during the Inquiry the Committee request witnesses to return answers to any questions taken on notice and any additional questions from members within 21 days of the date on which the questions are forwarded to witnesses by the committee clerk.

5.2 Conduct of hearings – division of questions between members

Resolved, on the motion of Mr Colless: That the allocation of questions between members during the public hearings be left in the hands of the Chair.

5.3 Conduct of site visits

The Committee noted that the submission from Mr Danny Chapman included an invitation to the Committee to visit the Aboriginal community at Wallaga Lake and at Mogo. The Committee also noted that Mr Toovey of the Department of Environment, Climate Change and Water had advised the secretariat of his intention to offer, during the hearing on Monday 19 April, to facilitate a visit by the Committee to a Marine Park.

Resolved, on the motion of Ms Voltz: That the Committee accept the invitations of Mr Chapman and Mr Toovey pending the identification of a suitable date and time and that the Secretariat investigate the feasibility of conducting site visits during the regional hearings and report back to the Committee.

5.4 Request to give evidence in camera – Nowra hearing 29 April

The Committee noted the request from the Secretary, Southern Bass Fishing Club that the evidence from representatives of that organisation be heard in camera.

Resolved, on the motion of Mr Cohen: That the evidence of the Southern Bass Fishing Club be heard in camera.

5.5 Request for approval to film proceedings

The Committee deliberated on the request from Mr McGlashan for approval to film his scheduled appearance before the Committee at the public hearing on Tuesday 27 April.

Resolved on the motion of Mr Cohen: That the Committee decline the request from Mr McGlashan for approval to film proceedings on Tuesday 27 April.

6. Inquiry into recreational fishing – public hearing

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

The following witnesses were sworn and examined:

- Mr Paul O'Connor, Principal Director, Fisheries and Compliance, Department of Industry
- Mr Peter Turnell, Director, Fisheries Resource Management, Department of Industry and Investment
- Mr Bryan Van Der Walt, Acting Manager, Recreational Fisheries Programs, Department of Industry and Investment
- Mr Michael Wright, Director, Protected Areas Policy and Programs, Department of Environment, Climate Change and Water
- Mr Adrian Toovey, Manager, Aquatic Protected Areas, Department of Environment, Climate Change and Water.

Mr Toovey tendered a suite of documents entitled: Supplementary Material to NSW Government Submission Reference: 1007 – Part 1 and Part 2.

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Mr Len Olyott, Chief Executive Officer, Australian Recreational and Sport Fishing Industry Confederation Incorporated (RECFISH).

The evidence concluded and the witness withdrew.

Mr Colless and Ms Voltz left the room.

The following witnesses were sworn and examined:

- Mr Grahame Turk, Managing Director, Sydney Fish Market, and Chair, New South Wales Seafood Industry Council
- Ms Mary Howard, Director, New South Wales Women's Industry Network Seafood Community
- Mr Graeme Byrnes, Manager, Alan A. Byrnes and Sons.

Mr Turk tendered a document entitled: NSW Seafood Production.

The evidence concluded and the witnesses withdrew.

The following witnesses from the Australian National Sportfishing Association (ANSA) were sworn and examined:

- Mr Stan Konstantaras, President
- Mr John Burgess, Vice President.

The evidence concluded and the witnesses withdrew.

Mr Lynn left the room.

The following witness was sworn and examined:

- Mr David Screen, President, Lakeside Fly Fishing Club.

Mr Screen tendered a document entitled: Attachments to be presented to the Legislative Council Select Committee on Recreational Fishing by the Lakeside Fly Fishing Club Inc.

The evidence concluded and the witness withdrew.

The public hearing concluded.

The public and media withdrew.

7. **Publication of documents tendered during the public hearing**

Resolved, on the motion of Ms Robertson: That the Committee accept and publish, according to section 4 of the Parliamentary Papers (Supplementary Provisions) Act 1975 and Standing Order 223(1) the following document tendered during the public hearing:

- Supplementary material to NSW Government Submission Reference: 1007 - Part 1 and Part 2, tendered by Mr Toovey
- NSW Seafood Production, tendered by Mr Turk
- Attachments to be presented to the Legislative Council Select Committee on Recreational Fishing, tendered by Mr Screen.

8. Adjournment

The Committee adjourned at 4.55 pm until Tuesday 27 April 2010 at 9.30 am in Room 814/815 (public hearing).

Rachel Callinan

Clerk to the Committee

Minutes No. 4

Tuesday 27 April 2010

Select Committee on Recreational Fishing

Room 814/815, Parliament House, Sydney, at 9.15 am

1. Members present

Mr Brown (Chair)

Mr Catanzariti (Deputy Chair)

Mr Cohen

Mr Colless

Ms Robertson

Ms Voltz (after item 4)

2. Apologies

Mr Charlie Lynn

3. Previous minutes

Resolved, on the motion of Ms Robertson: That draft Minutes No. 3 be confirmed.

4. Correspondence

The Committee noted the following item of correspondence received:

- 19 April 2010 – From Mr Adrian Toovey, Marine Parks Authority, attaching copies of Marine Parks Authority Policy on artificial reefs, joint Ministerial media releases and related fact sheets.

5. Inquiry into recreational fishing – public hearing

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

The following witnesses were sworn and examined:

- Professor David Booth, Member, Australian Marine Sciences Association, NSW Branch
- Professor Maria Byrne, Member, Australian Marine Sciences Association, NSW Branch
- Dr Will Figueira, Secretary, Australian Marine Sciences Association, NSW Branch.

Professor Byrne tendered documents entitled:

- Reserves ‘win-win’ for fish and fishermen
- Adaptive management of the Great Barrier Reef: A globally significant demonstration of the benefits of networks of marine reserves
- Exploited reefs protected from fishing transform over decades into conservation features otherwise absent from seascapes
- List of scientific research publications related to marine protected areas, marine reserves and marine sanctuaries.

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Professor Robert Kearney, Emeritus Professor in Fisheries Management.

The evidence concluded and the witness withdrew.

The following witnesses from the Central Acclimatisation Society were sworn and examined:

- Mr Karl Schaerf, Honorary Secretary
- Mr Donald Barton, Member.

Ms Voltz joined the meeting.

The evidence concluded and the witnesses withdrew.

The following witnesses from the Underwater Skindivers & Fishermen's Association (USFA) were sworn and examined:

- Mr Peter Saunders, President
- Mr Adrian Wayne, Vice President
- Mr Oliver Wady, Sport Secretary.

Mr Saunders tendered a document entitled:

- The Guide to Spearfishing in New South Wales.

The evidence concluded and the witnesses withdrew.

The following witness was examined on former oath:

- Mr Stan Konstantaras, President, Australian National Sportfishing Association, NSW Branch.

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Mr Alistair McGlashan, Fishing journalist.

The evidence concluded and the witness withdrew.

The public hearing concluded.

The public and media withdrew.

6. Acceptance and publication of documents tendered during the public hearing

Resolved on the motion of Mr Catanzariti: That the Committee accept and publish, according to section 4 of the Parliamentary Papers (Supplementary Provisions) Act 1975 and Standing Order 223(1) the following documents tendered during the public hearing:

- Reserves 'win-win' for fish and fishermen, tendered by Professor Byrne
- Adaptive management of the Great Barrier Reef: A globally significant demonstration of the benefits of networks of marine reserves, tendered by Professor Byrne
- Exploited reefs protected from fishing transform over decades into conservation features otherwise absent from seascapes, tendered by Professor Byrne
- List of scientific research publication related to marine protected areas, marine reserves and marine sanctuaries, tendered by Professor Byrne.
- The Guide to Spearfishing in New South Wales, tendered by Mr Saunders

7. Site visits

Resolved, on the motion of Ms Voltz: That the Committee:

- undertake a site visit to Jervis Bay Marine Park on Thursday 29 April 2010 and
- meet with representatives from the Aboriginal communities of Wallaga Lake and Mogo at the Aboriginal Land Council Offices, Mogo on Wednesday 26 May 2010.

8. Legislative Council information sessions for secondary school students in regional areas Wednesday 26 May & Thursday 27 May 2010

The Committee noted that, three staff from the Legislative Council Procedural Research and Training and Parliamentary Education sections would be accompanying the Committee during its flights to Bateman's Bay and Griffith on 26-27 May 2010. In order to conduct information sessions/workshops with local secondary school students on the NSW Legislative Council and its committees, and with the view to the students observing part of the Committee's hearings.

9. Consideration of request to change scheduled hearing date

Resolved, on the motion of Mr Cohen: That the public hearing to be held on Tuesday 29 June 2010 be rescheduled to Friday 3 September 2010.

10. Boat ramps within the Port Stephens – Great Lakes Marine Park

Resolved, on the motion of Mr Cohen: That the Secretariat write to the Department of Environment, Climate Change and Water seeking clarification on the regulations applying within the Port Stephens – Great Lakes Marine Park to rigged fishing lines on boats when transiting sanctuary zones and when accessing boat ramp facilities located within sanctuary zones.

11. Adjournment

The Committee adjourned at 3.25 pm until Thursday 29 April 2010 at 6.30 am the Hospital Road entrance of Parliament House for a site visit to the Jervis Bay Marine Park.

Rachel Simpson

Clerk to the Committee

Minutes No. 5

Thursday 29 April 2010

Jervis Bay Marine Park and Victoria Room, Worrigeer House, Nowra, at 10.00 am

1. Members present

Mr Brown (*Chair*)

Mr Catanzariti (*Deputy Chair*)

Mr Cohen

Mr Colless

Ms Robertson

Ms Voltz

2. Apologies

Mr Charlie Lynn

3. Site visit

The Committee visited the Jervis Bay Marine Park, departing from the public wharf at Huskisson, 10 am, accompanied by Mr Matt Carr, Manager, Jervis Bay Marine Park.

4. Inquiry into recreational fishing – public hearing

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

The following witnesses were sworn and examined:

- Ms Diane Garrod, Regional Manager, South Coast Region, Department of Environment, Climate Change and Water
- Mr Matt Carr, Manager, Jervis Bay Marine Park

Ms Garrod tendered a document entitled:

- *Zoning Plan Users Guide, Jervis Bay Marine Park*

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Mr Jim Harnwell, Editor, Fishing World

Mr Harnwell tendered a document entitled:

- *The efficacy of sanctuary areas for the management of fish stocks and biodiversity in WA Waters*, Fisheries Research Report 169, 2010

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Mr Hayden Capobianco, South Coast Fishing Club Association

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Mr Melven Brown, Recreational fisher

Mr Brown tendered documents entitled:

- *Eaze the Squeeze*
- *Co-management: Managing Australia's fisheries through partnership and delegation* – Report of the FRDC's national working group for the Fisheries Co-management Initiative – project no. 2006/068

The evidence concluded and the witness withdrew.

The following witness was sworn and examined

- Mr Julian Watson, Newsletter Editor, Illawarra Flyfishing Club

The evidence concluded and the witness withdrew.

Resolved, on the motion of Mr Colles: That the Committee proceed to take evidence *in camera*.

The public and media withdrew.

The Committee proceeded to take in camera evidence.

Persons present other than the Committee: Ms Simpson, Mr Young, Ms Mihaljek, Ms Harris and Hansard Reporters.

Resolved on the motion of Mr Colles: That the hearing resume in public.

The public and media were readmitted.

The evidence was concluded and the witness withdrew.

The following witness was sworn and examined:

- Mr Rod Peterlin, Recreational fisher

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Mr Matt Cross, Dolphin Watch Cruises

The evidence concluded and the witness withdrew.

The public hearing concluded.

The public and media withdrew.

5. Correspondence

The Committee noted the *following* item of correspondence received:

- 27 April 2010 – Email from Mr John Broomhead, Senior Projects Manager, Coastal Management - Environmental Independent Consultants, to the Committee, regarding evidence given by a witness during the hearing on 19 April 2010.

6. Acceptance and publication of documents tendered during the public hearing

Resolved on the motion of Ms Robertson: That the Committee accept and publish, according to section 4 of the *Parliamentary Papers (Supplementary Provisions) Act 1975* and Standing Order 223(1) the following documents tendered during the public hearing:

- *Zoning Plan Users Guide, Jervis Bay Marine Park*, tendered by Ms Garrood
- *The efficacy of sanctuary areas for the management of fish stocks and biodiversity in WA Waters*, Fisheries Research Report 169, 2010, tendered by Mr Harnwell

- *Co-management: Managing Australia's fisheries through partnership and delegation* – Report of the FRDC's national working group for the Fisheries Co-management Initiative – project no. 2006/068, including various other documents, tendered by Mr Brown

7. Publication of *in camera* transcript

Resolved, on the motion of Ms Robertson: That the Committee defer consideration of whether to publish the transcript from the *in camera* hearing, until a future meeting.

8. Adjournment

The Committee adjourned at 8.00 pm until Tuesday 4 May 2010 (public hearing Port Macquarie).

Rachel Simpson

Clerk to the Committee

Minutes No. 6

Tuesday 4 May 2010

Whitesands Conference Centre, Shoal Bay Resort and Spa, Port Stephens, at 1.00 pm

1. Members present

Mr Brown (*Chair*)

Mr Catanzariti (*Deputy Chair*)

Mr Cohen

Mr Colless

Ms Robertson

Ms Voltz

2. Apologies

Mr Lynn

3. Inquiry into recreational fishing – public hearing

The public and the media were admitted.

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

The following witness was sworn and examined:

- Mr Bob Penfold, recreational fisher.

Mr Penfold tendered a written copy of his opening statement entitled: *Presentation by Bob Penfold: NSW Government inquiry into recreational fishing in NSW*.

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Mr Stephen Dial, www.newcastlefishing.com.au.

Mr Dial tendered the following items:

- CDs entitled 'Fishing Lake Macquarie – the Ultimate Guide' and 'Swansea offshore'
- Correspondence with Public Affairs Officer-Strategy, Policy and Communication of Industry & Investment NSW
- Images of 'Notice to map users' and other public notice signs
- A map entitled: Free electronic map of marine parks.

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Mr John Clarke, recreational fisher.

Mr Clarke tendered the following documents:

- A publication entitled: *Broughton Islanders*
- A one page document listing issues relevant to the Inquiry

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Mr Max Haste, Manager, Port Stephens – Great Lakes Marine Park
- Mr Robert Quirk, Regional Manager, Hunter Regional NP&WS, Department of Environment, Climate Change and Water.

Mr Haste tendered the following documents:

- Recreational fishing guide – Port Stephens – Great Lakes Marine Park
- Port Stephens – Great Lakes Marine Park – Zoning Plan User Guide
- Defences for the possession of fishing equipment in marine park sanctuary zones
- Two images of fishing activity alongside sanctuary zone signs
- A table entitled: Approximate areas and percentages of various habitat types from all zones within the PSGLMP 9/10/07.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined

- Mr Leslie Cheers, commercial fisher
- Mrs Kathleen Cheers, commercial fisher.

Mrs Cheers tendered the following documents:

- Pathological assessment of mullet and flathead from smiths lake – March 2010, DigsFish Services Report: DF 10-03, 22 April 2010
- A survey of daytime recreational fishing during the annual period, March 1999 to February 2000, in Lake Macquarie, New South Wales, August 2003, NSW Fisheries Final Report Series, Report No 52.

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Mr Kelvin Wynn, commercial fisher.

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Mr Peter Hughes, Junction Inn Fishing Club.

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Mr Ted Mackay, Port Stephens ECOfishers.

The evidence concluded and the witness withdrew.

The public hearing concluded.

The public and media withdrew.

4. Adjournment

The Committee adjourned at 7.50 pm until Wednesday 5 May 2010 (public hearing Port Macquarie).

Rachel Callinan

Clerk to the Committee

Minutes No. 7

Wednesday 5 May 2010

Ivan Livermore Stand, Port Macquarie Race Club, Port Macquarie, at 1.00 pm

1. Members presentMr Brown (*Chair*)Mr Catanzariti (*Deputy Chair*)

Mr Cohen

Mr Colless

Ms Robertson

Ms Voltz

2. Apologies

Mr Lynn

3. Inquiry into recreational fishing – public hearing

The public and media were admitted.

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

The following witnesses were sworn and examined:

- Mr Robert Smith, Chairman, The Fishing Party
- Mr Paul Hennelly, Research Officer, The Fishing Party.

Mr Smith tendered a copy of a 15 October 2006 entry to the online Ausfish Australian Angling Forums entitled: *The real truth emerging in NSW*.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Peter Hemmings, President, Hat Head Bowling and Recreation Fishing Club
- Mr Maurie Britten, Vice President, Hat Head Bowling and Recreation Fishing Club.

Mr Hemmings tendered a photocopy of an article from the Manning River Times, entitled Fishing in sanctuary zones.

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Mr Lawrence McEnally, Director, Macleay River District Fishermen's Co-operative.

The evidence concluded and the witness withdrew.

The public and media withdrew.

4. Previous minutes

Resolved, on the motion of Ms Robertson: That draft Minutes No. 4 and 5 be confirmed.

5. Correspondence

The Committee noted the following item of correspondence received:

- 28-29 April 2010 – Email from Mr Al McGlashan to the Committee secretariat, enclosing forwarded emails from various individuals regarding an issue raised during his evidence at the Inquiry into recreational fishing hearing on Tuesday 27 April.

6. Publication of in camera transcriptResolved, on the motion of Mr Catanzariti: That, according to section 4 of the *Parliamentary Papers (Supplementary Provisions) Act 1975* and Standing Order 223(1), the Committee authorises the partial publication of the transcript of in camera evidence given on 29 April 2010, with identifying witness information removed.

Resolved, on the motion of Mr Colless: That the Committee accept the document tendered during the in camera evidence on 29 April 2010, and authorises its partial publication, with sensitive and identifying information removed, and with certain paragraphs containing mention of third parties to remain confidential to the Committee.

7. Request to give evidence in camera during public hearing

Resolved, on the motion of Mr Cohen: That the Committee agree to the request of the author of Submission No XXX to give his evidence in camera at the 26 May hearing at Batemans Bay.

8. Acceptance and publication of documents tendered during the public hearing at Port Stephens on 4 May 2010

Resolved on the motion of Ms Voltz: That the Committee accept and publish, according to section 4 of the *Parliamentary Papers (Supplementary Provisions) Act 1975* and Standing Order 223(1) the following documents tendered during the public hearing at Port Stephens on 4 May 2010:

- Written copy of opening statement – tendered by Mr Penfold
- CDs entitled ‘Fishing Lake Macquarie – the Ultimate Guide’ and ‘Swansea offshore’ – tendered by Mr Dial
- Correspondence with Public Affairs Officer –Strategy, Policy and Communications, Industry & Investment, NSW – tendered by Mr Dial
- Images of ‘Notice to map users’ and other public notice signs – tendered by Mr Dial
- A map entitled ‘Free electronic map of marine parks’ – tendered by Mr Dial
- A publication entitled: *Broughton Islanders* – tendered by Mr Clarke
- A one-page document listing issues relevant to the Inquiry – tendered by Mr Clarke
- A document entitled: *Recreational fishing guide – Port Stephens Great Lakes Marine Park* – tendered by Mr Haste
- A document entitled: *Port Stephens Great Lakes Marine Park – Zoning Plan User Guide* – tendered by Mr Haste
- A copy of a Marine Parks Authority web document entitled: *Defences for the possession of fishing equipment in marine park sanctuary zones* – tendered by Mr Haste
- Two images of fishing activity alongside sanctuary zone signs – tendered by Mr Haste
- A table entitled: *Approximate areas and percentages of various habitat types from all zones within the PSGLMP 9/10/07* – tendered by Mr Haste
- A copy of the document entitled: *Pathological assessment of mullet and flathead from Smiths Lake – March 2010*, DigFish Services Report: DF 10-03, 22 April 2010 – tendered by Mrs Cheers
- A copy of the document entitled: *A survey of daytime recreational fishing during the annual period March 1999 – February 2000, in Lake Macquarie, New South Wales*, August 2003, NSW Fisheries Final Report Series, Report No 52 – tendered by Mrs Cheers

9. Public hearing – inquiry into recreational fishing

The public and media were admitted, the public hearing resumed.

The following witnesses were sworn and examined:

- Mr Ray Robinson, President, North Haven Bowling Club Fishing Club
- Mr Geoff Williams, Member, Lake Cathie Bowling Club Fishing Club
- Mr Bill Judd, Member, Laurieton United Servicemen’s Club Fishing Club.

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined

- Mr John O’Rafferty, recreational fisher.

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Mr Maxwell Frost, recreational fisher.

Mr Frost tendered a document entitled: *Recreational Anglers Stakeholders Group – Wallis Lake Submission*.

The evidence concluded and the witness withdrew.

The public hearing concluded.

The public and media withdrew.

10. Acceptance and publication of documents tendered during the public hearing

Resolved on the motion of Ms Voltz: That the Committee accept and publish, according to section 4 of the *Parliamentary Papers (Supplementary Provisions) Act 1975* and Standing Order 223(1) the following documents tendered during the public hearing:

- a copy of a 15 October 2006 entry to the online Ausfish Australian Angling Forums entitled: *The real truth emerging in NSW*, tendered by Mr Smith
- a photocopy of an article from the *Manning River Times*, entitled *Fishing in sanctuary zones*, tendered by Mr Hemmings
- Document entitled: *Recreational Anglers Stakeholder Group – Wallis Lake Submission*, tendered by Mr Frost.

11. Other business

Resolved on the motion of Ms Voltz: That, a question on notice be sent to the Manager of the Port Stephens – Great Lakes Marine Park asking for clarification and context of his comments as reproduced in the article in the *Manning River Times* tendered by Mr Hemmings, including a breakdown of the number fined and for what offences.

Resolved, on the motion of Mr Colless: That additional questions on notice for the witnesses that appeared at the hearings on 4 and 5 May 2010 be submitted by Members to the Secretariat by either 5pm on Tuesday 11 May 2010, or two days after the hearing transcripts have been supplied too Members, whichever is the latter.

12. Adjournment

The Committee adjourned at 7.30 pm until Wednesday 26 May 2010 (site visit and public hearing Batemans Bay).

Rachel Callinan

Clerk to the Committee

Minutes No. 8

Wednesday 26 May 2010

Aboriginal Land Council Office, Mogo at 11.15 am and Lincoln Downs, Batemans Bay

1. Members present

Mr Brown (*Chair*)
Mr Catanzariti (*Deputy Chair*)
Mr Cohen
Mr Colless
Ms Robertson
Ms Voltz

2. Apologies

Mr Lynn

3. Site visit - Aboriginal Land Council Offices, Mogo

The Committee met with representatives from the Aboriginal community of Mogo. The visit was also attended by:

- Mr Danny Chapman
- Mr Tommy Butler
- Mr Andrew Neigh
- Mr Ron (TBA)
- Mr Leonard Neigh
- Mr Ian Keen
- Mr Wally Sturel
- Ms Daphany Parsons
- Mr Eddie Moore

Mr Chapman tendered a copy of an email dated 24 May 2010 from the A/Director, Policy and Research, New South Wales Land Council to all Zone Directors concerning Interim Provisions for Aboriginal Fishers in NSW.

The meeting concluded at 12.15pm.

The Committee travelled to the Lincoln Downs Comfort Inn, Batemans Bay.

4. **Public Hearing – Inquiry into recreational fishing, Batemans Bay**

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

The following witnesses were sworn and examined:

- Dr Brendan Kelaher, Manager, Batemans Marine Park
- Mr Timothy Shepherd, Regional Manager, Far South Coast, Department of Environment, Climate Change and Water

Mr Shepherd tendered the following documents:

- Copies of twelve local media articles regarding fishing in the Batemans Marine Park and tourism in the Eurobodalla Shire
- Document entitled: *Draft Zoning Plan Overview and Submission Form, Batemans Marine Park*
- Copy of a graphical representation entitled: Tourism Trends Eurobodalla Shire 1999-2009, Data provided by Eurobodalla Tourism

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Mr Mark Fleming, Vice President, Coastwatchers Association
- Ms Jennifer Edwards, President, The Nature Coast Marine Group Inc

The evidence concluded and the witnesses withdrew.

The public and media withdrew.

As per the resolution made, on the motion of Mr Cohen, at its seventh meeting, the Committee proceeded to take evidence in camera.

The Committee proceeded to take in camera evidence.

Persons present other than the Committee: Ms Simpson, Mr Young, Ms Mihaljek and Hansard Reporters.

The in camera evidence concluded. The hearing resumed in public.

The public and media were readmitted.

The following witnesses were sworn and examined:

- Mr Richard Cumming, Southern Marine Park delegate, Underwater Skindivers and Fishermen's Association

Mr Cumming tendered the following document:

- A copy of the confidential minutes of the 12 October 2006 meeting No 12 of the Batemans Marine Park Advisory Committee
- A copy of a report dated March 2007 entitled: *Competition Spearfishing Report from the Jervis Bay Marine Park: Report to the Jervis Bay Marine Park Steering Committee, JPMP Advisory Committee and the JPMP spearfishing working group*
- A copy of a table representing the amount of each habitat type contained within each zone type in the Batemans Marine Park Draft Zoning Plan
- A copy of a map displaying the boundaries of the various NSW Coastal Bioregions and the location of Marine Parks, Marine areas, aquatic reserves and Commonwealth MPAs
- A copy of undated correspondence from the spearfishing representative to the Solitary Islands Marine Park Advisory Committee tendering his resignation to the Manger, Solitary Islands Marine Park

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Dr Philip Creagh, Chair, Narooma Port Committee
- Mr Richard Tilzey, Retired Fisheries Scientist, and member, Narooma Port Committee

Dr Creagh tendered the following document:

- A copy of his opening statement entitled: *Oral submission for NSW Rec Fishing Inquiry: Public Hearing May 26th 2010, Lincoln Downs Motel, Batemans Bay*

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined

- Ms Marion Stockman, Owner, Harry's Bait & Tackle

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Mr Ian H Smith, Recreational Fishing Representative, Batemans Marine Park Advisory Committee

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Mr David Clark, President, Narooma Sporting and Services Fishing Club
- Mr John Moore, member, Narooma Sporting and Services Fishing Club

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Mr Brett Miners, Landscape Manager, Southern Rivers Catchment Management Authority

Mr Miners tendered the following documents:

- One page information sheet entitled: *Fish Friendly Farms "Penuca" and "Wangalee"*
- One page information sheet entitled: *Demonstration Farm open morning 'Penuca'.*

The evidence concluded and the witness withdrew.

The public hearing concluded.

The public and media withdrew.

5. **Adjournment**

The Committee adjourned at 7:45 pm until Thursday 27 May 2010 (public hearing Griffith).

Rachel Simpson

Clerk to the Committee

Minutes No. 9

Thursday 27 May 2010

Griffith Council Chambers, Griffith, 1.00 pm

1. Members present

Mr Brown (*Chair*)

Mr Catanzariti (*Deputy Chair*)

Mr Cohen

Mr Colless

Ms Robertson

Ms Voltz

2. Apologies

Mr Lynn

3. Public Hearing – Inquiry into recreational fishing

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

The following witnesses were sworn and examined:

- Mr Peter Grant, Secretary, Yenda Hotel Fishing Club
- Mr Tony Kelly, member, Yenda Hotel Fishing Club
- Mr Colin Wood, member, Yenda Hotel Fishing Club

Mr Grant tendered the following document:

- A copy of his opening statement entitled: *Review of Set Line Rules*

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Graeme Hurst, Secretary, Northside Leagues Fishing Club
- Mr Jeffrey Pagett, Committee Member, Northside Leagues Fishing Club

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Peter Craig, recreational fisher

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Mr Tim Becroft, President, Tocumwal Fishing Club

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined

- Mr Christopher Beale, President, South West Anglers Association
- Mr Terry Maloney, Secretary, South West Anglers Association
- Mr Jim Muirhead, member, South West Anglers Association

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Mr Cameron Westaway, Senior Fisheries Manager, Industry & Investment NSW

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Mr Greg Davis, President, Canberra Fisherman's Club
- Mr Anthony Heiser, member, Canberra Fisherman's Club

The evidence concluded and the witnesses withdrew.

The public hearing concluded.

The public and media withdrew.

4. Previous Minutes

Resolved, on the motion of Ms Robertson: That draft Minutes No. 6 and 7 be confirmed.

5. Submissions received

The Committee noted the following submissions have been received:

- Submission 1019, Mr Michael Lyon
- Submission 1020, Mr Darren Saward
- Submission 1021, Mr David Lyon

6. Correspondence

The Committee noted the following items of correspondence have been received:

- 11 May 2010 – From Mr Grahame Turk, Chair, NSW Seafood Industry Council, providing answers to questions taken on notice during the hearing on 19 April 2010
- 11 May 2010 – From Mr Grahame Turk, Managing Director, Sydney Fish Market, providing answers to questions taken on notice during the hearing on 19 April 2010
- 14 May 2010 – From Mr Bryan van der Walt, Acting Manager, Recreational Fisheries Program, Department of Industry & Investment, providing answers to questions taken on notice during the hearing on 19 April 2010 and additional written questions on notice
- 17 May 2010 – From Ms Mary Howard, NSW Director, Women's Industry Network Seafood Community, providing answers to questions taken on notice during the hearing on 19 April 2010
- 18 May 2010 – From Mr Michael Wright, Director, Protected Area Policy and Programs, Department of Environment, Climate Change and Water, providing answers to questions taken on notice during the hearing on 19 April 2010 and additional written questions on notice
- 19 May 2010 – From Mr Len Olyott, CEO, Recfish Australia Inc enclosing answers to questions taken on notice during the hearing on 19 April 2010
- 24 May 2010 – From Mr Peter Hemmings, Hat Head Bowling and Recreation Club Amateur Fishing Club, clarifying his evidence and providing answers to questions taken on notice during the hearing on 5 May 2010
- 24 May 2010 – From Mr Stephen Dial, providing answers to questions taken on notice during the hearing on 4 May 2010.

7. Publication of answers to questions on notice

Resolved, on the motion of Mr Catanzariti: That according to section 4 of the *Parliamentary Papers (Supplementary Provisions) Act 1975* and standing order 223(1), the Committee authorise the publication of answers to questions on notice from NSW Seafood Industry Council; Sydney Fish Market; the Department of Industry & Investment; the Women's Industry Network Seafood Community; the Department of Environment, Climate Change and Water; Mr Peter Hemmings; and Mr Stephen Dial

8. Acceptance and publication of documents tendered during the public hearings

Resolved, on the motion of Ms Voltz: That the Committee defer consideration of the question of acceptance and publication of the documents tendered during the public hearings at Batemans Bay and Griffith until the next meeting of the Committee.

9. Adjournment

The Committee adjourned at 7:30 pm until Tuesday 15 June 2010 (public hearing Grafton).

Rachel Simpson

Clerk to the Committee

Minutes No. 10

Tuesday 15 June 2010

Grafton Community and Function Centre, Grafton, 12:10 pm

1. Members present

Mr Brown (*Chair*)
Mr Catanzariti (*Deputy Chair*)
Mr Cohen
Mr Colless
Ms Robertson
Ms Voltz

2. Apologies

Mr Lynn

3. Previous Minutes

Resolved, on the motion of Mr Catanzariti: That draft Minutes Nos. 8 and 9 be confirmed.

4. Submissions received

The Committee noted the following submissions have been received:

- Submission 1022, Mr John Williams, Gone Fish'n

5. Correspondence

The Committee noted the following items of correspondence received:

- 20 May 2010 From Professor Robert Kearney enclosing a copy of correspondence from himself to Ms Lisa Corbyn, Director General, DECCW, regarding the Independent Review on Marine Park Science in NSW.
- 24 May 2010 – From Mr Dan Bode, outlining submission and request to appear at the Grafton hearing.
- 28 May 2010 – From Mr Peter Saunders, Underwater Skindivers & Fishermen's Association (USFA), providing answers to questions on notice following the hearing on 27 April 2010
- 31 May 2010 – From Mr John Clarke, providing answers to additional questions following the hearing on 4 May 2010
- 31 May 2010 – From Mr John O'Rafferty, providing answers to additional questions following the hearing on 5 May 2010
- 31 May 2010 – From Mr Karl Schaerf, Honorary Secretary, Central Acclimatisation Society, providing answers to questions taken on notice during the hearing on 27 April 2010 and answers to additional questions, as well as enclosing additional information.
- 2 June 2010 – From Mr Bob Penfold, providing answers to additional questions following the hearing on 4 May 2010
- 2 June 2010 – From Mr Matt Carr, Jervis Bay Marine Park, correcting a factual error in the hearing transcript; and providing answers to questions on notice, including answers to additional questions and corrections to transcript, following the hearing on 29 April 2010
- 2 June 2010 – From Mr Max Frost, Recreational fisher, providing answers to additional questions and corrections to transcript, following the hearing on 5 May 2010.
- 3 June 2010 – From Mr Leslie Cheers, providing answers to additional questions following the hearing on 4 May 2010
- 3 June 2010 – Letter from Professor Robert Kearney, Emeritus Professor of Fisheries, University of Canberra, providing corrections to transcript and additional information.
- 4 June 2010 – From Mr Ray Robinson, Mr Geoff Williams and Mr Bill Judd, Camden Haven Fishing Clubs, providing answers to additional questions, following hearing on 5 May 2010
- 7 June 2010 – From Mr Max Haste, Manager, Port Stephens – Great Lakes Marine Park, providing answers to answers to questions on notice following the hearing 4 May 2010.

6. Publication of answers to questions on notice

Resolved, on the motion of Ms Voltz: That according to section 4 of the *Parliamentary Papers (Supplementary Provisions) Act 1975* and Standing Order 223(1), the Committee authorise the publication of answers to questions on notice received from: Mr Peter Saunders; Mr John Clarke; Mr John O'Rafferty; Mr Karl Schaerf; Mr Matt Carr; Mr Bob Penfold; Mr Max Frost; Mr Leslie Cheers; Mr Ray Robinson, Mr Geoff Williams and Mr Bill Judd; and Mr Max Haste.

7. Publication of correspondence received

Resolved on the motion of Mr Colless: That according to section 4 of the *Parliamentary Papers (Supplementary Provisions) Act 1975* and Standing Order 223(1), the Committee authorises the publication of the correspondence (dated 20 May 2010 and 3 June 2010) received from Professor Robert Kearney

8. Acceptance and publication of documents tendered at the public hearings held at Batemans Bay and Griffith

Resolved on the motion of Mr Colless: That according to section 4 of the *Parliamentary Papers (Supplementary Provisions) Act 1975* and Standing Order 224(1), the Committee accepts and authorises the publication of the following documents tendered during the public hearings on 26 and 27 May 2010:

- Copies of twelve local media articles regarding fishing and tourism in the Batemans Marine Park – tendered by Mr Shepherd
- Document entitled: Draft Zoning Plan Overview and Submission Form, Batemans Marine Park – tendered by Mr Shepherd
- Graph representing Tourism Trends Eurobodalla Shire 1999-2009 – tendered by Mr Shepherd
- Report, dated March 2007, entitled: Competition Spearfishing Report from the Jervis Bay Marine Park – tendered by Mr Cummins
- Table representing the amount of each habitat type contained within each zone type in the Batemans Marine Park Draft Zoning Plan – tendered by Mr Cummins
- Map displaying the boundaries of the various NSW Coastal Bioregions and the location of Marine Parks, Marine areas, aquatic reserves and Commonwealth MPAs – tendered by Mr Cummins
- Two one-page information sheets on fish-friendly farms – tendered by Mr Miners
- Copy of opening statement entitled: Review of Set Line Rules – tendered by Mr Grant

Resolved on the motion of Ms Voltz: That according to section 4 of the Parliamentary Papers (Supplementary Provisions) Act 1975 and Standing Order 224(1), the Committee accept and authorise the partial publication of the document tendered by Dr Creagh during the public hearing on 26 May 2010 with sections containing adverse mention suppressed and with the suppressed sections remaining confidential to the Committee.

Resolved on the motion of Ms Voltz: That the following documents tendered during the public hearing on 26 May 2010 remain confidential to the Committee:

- Copy of the confidential minutes of the 12 October meeting of the Batemans Marine Park Advisory Committee – tendered by Mr Cummins
- A copy of undated correspondence from the spearfishing representative to the Solitary Islands Marine Park Advisory Committee tendering his resignation – tendered by Mr Cummins

9. Public Hearing – Inquiry into recreational fishing

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

The following witness was sworn and examined:

- Mr Dan Bode, Kayak fisher

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Mr John Harrison, Executive Officer, Professional Fishermen's Association

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Mr Scott Flynn, Member, Big River Bass Fly Fishing Club
- Mr Mark Thompson, Treasurer, Big River Bass Fly Fishing Club

Mr Flynn tendered the following document:

- *Submission to Select Committee on Recreational Fishing by Big River Bass Fly Fishing Club: Additional information to submission number 728.*

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Peter Corlis, Catchment Coordinator, Northern Rivers Catchment Management Authority
- Ms Nicole Strehling, Project Officer, Northern Rivers Catchment Management Authority

Mr Corlis tender the following documents:

- Hard copy of PowerPoint presentation on Northern Rivers Catchment Management Authority work regarding river, estuary and marine health.

- Copy of information brochure entitled: *Northern Rivers Catchment Management Authority: Maintaining our catchments – Sustaining our future*
- Copy of information brochure entitled: *Northern Rivers Catchment Management Authority: Partnership Project: Clarence River Fish Track: Effects of flows and barriers on the distribution of freshwater fish in the Clarence River system*
- Copy of case study information sheet entitled: *Implementation of best practice commercial fishing gear technology.*

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined

- Mr David Anderson, Chair, Clarence River Fishermen's Co-operative

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Mr Alan Jeffery, Regional Manager, North Coast, Department of Environment, Climate Change and Water
- Mr Andrew Page, Manager, Cape Byron Marine Park
- Mr Hamish Malcolm, Research Officer, Solitary Islands Marine Park

Mr Page tendered the following document:

- A suite of documents entitled: *Draft Planning Scheme Cape Byron Marine Park*

Mr Malcolm tendered the following documents:

- A document entitled: *Copy of opening statement from Mr Hamish Malcolm*
- A document entitled: *Solitary Islands and Jervis Bay Marine Parks: Research Project Summaries 2002 - 2009*

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined

- Mr Geoff Parker, Fisheries and Environmental Spokesman, Coffs Harbour Deep Sea Fishing Club

The evidence concluded and the witness withdrew.

The following witness was sworn and examined

- Mr Ken Thurlow, ECOfishers

Mr Thurlow tendered the following documents:

- Copy of publication entitled: *Rapid Assessment of Rocky Shore Biodiversity in the Cape Byron Region* Stephen D A Smith & Kathryn A James; August 2003
- Copy of map entitled: *Cape Byron Marine Park Final Zoning Plan: To come into effect in April 2006*
- Copy of map entitled: *Seabed types identified from sidescan sonar images and towed underwater video camera*

The evidence concluded and the witness withdrew.

Mr John Williams, Recreational angler

Mr Williams tendered the following documents:

- Document reflecting the opinions of recreational anglers expressed to the author over six-year period
- Document highlighting issues with current fisheries system

The public hearing concluded.

The public and media withdrew.

10. Adjournment

The Committee adjourned at 8:03 pm until Monday 30 August 2010 (public hearing Parliament House).

Rachel Simpson

Clerk to the Committee

Minutes No. 11

Monday 30 August, 2010

Rooms 814/815, Parliament House, Sydney

11. Members present

Mr Brown (Chair)
Mr Catanzariti (Deputy Chair)
Mr Cohen
Mr Colless after item 7
Ms Robertson
Ms Voltz

**12. Apologies
Mr Lynn****13. Previous Minutes**

Resolved on the motion of Ms Robertson: That draft Minutes No. 10 be confirmed.

14. Publication of submissions

Resolved, on the motion of Mr Cohen: That, according to section 4 of the *Parliamentary Papers (Supplementary Provisions) Act 1975* and Standing Order 223(1), the Committee authorise the publication of submission 1024.

15. Correspondence

The Committee noted the following items of correspondence received:

- 27 May 2010 – From Jon Sloan, outlining a personal perspective on the negative consequences of the establishment of the Batemans Marine Park.
- 15 June 2010 – From Professor Robert Kearney, enclosing answers to additional questions following the hearing 27 April 2010.
- 16 June 2010 – From Mr John Harrison, Professional Fisherman's Association, enclosing a copy of the document entitled: *Marine Science in NSW – An independent review* following the hearing 15 June 2010.
- 17 June 2010 – From Mr D Stuart, enclosing an answer to a question taken on notice, following the hearing 26 May 2010 – *confidential*.
- 22 June 2010 – From Ms Jenny Edwards, enclosing answers to additional questions following the hearing 26 May 2010.
- 23 June 2010 – From John Williams, summarising the points he wished to emphasise from his appearance at the hearing 15 June 2010.
- 23 June 2010 – From Mr Peter Grant, Yenda Hotel Fishing Club, enclosing answers to additional questions following the hearing 27 May 2010.
- 26 June 2010 – From Ms Jenny Edwards, enclosing supplementary information from Nature Coast Marine Group members to the answers to additional questions following the hearing 26 May 2010.
- 26 June 2010 – From Narooma Port Committee, Dr Philip Creagh, enclosing answers to additional questions following the hearing 26 May 2010.
- 28 June 2010 – From Mr Ian H Smith, Recreational Fishing Representative, Batemans Marine Park Advisory Committee, enclosing an answer to question on notice, answers to additional questions following the hearing 26 May 2010.
- 29 June 2010 – From Adrian Piccoli MP, Member for Murrumbidgee, forwarding a letter he had received regarding NSW Inland Anglers Rules and Regulations.
- 30 June 2010 – From Dr Brendan Kelaher, Batemans Marine Park, and Mr Tim Shepherd, Department of Environment, Climate Change and Water, enclosing answers to additional questions, and forwarding eight attachments, following the hearing 26 May 2010.
- 30 June 2010 – From Mr Graeme Hurst, Northside Leagues Fishing Club, enclosing an answer to additional question, following the hearing 27 May 2010.
- 1 July 2010 – From Mr Terry Maloney, South West Anglers Association, enclosing answers to additional questions, following the hearing 27 May 2010.
- 5 July 2010 – From Mr Greg Davis, Canberra Fisherman's Club, enclosing answers to additional questions, following the hearing 27 May 2010.

- 5 July 2010 – From Mr Ric Cumming, Recreational Fisher, enclosing answers to question on notice and answers to additional questions, following the hearing 26 May 2010.
- 6 July 2010 – From Mr Anthony Heiser, Canberra Fisherman’s Club, enclosing answer to question on notice and answers to additional questions, following the hearing 27 May 2010.
- 6 July 2010 – From Mr Philip Creagh, Narooma Port Committee, requesting that response 6 of his answer to additional questions on notice be kept confidential.
- 8 July 2010 – From Mr John Williams, Recreational Fisher, enclosing an answer to an additional question, following the hearing 15 June 2010.
- 12 July 2010 – From Mr Mark Fleming, Coastwatchers Association, enclosing answers to questions on notice and additional questions, following the hearing 26 May 2010.
- 14 July 2010 – From Mr Martin Salter, former UK Parliamentary Spokesman for Angling, regarding his experience in the UK and his availability to give evidence at a public hearing.
- 19 July 2010 – From Mr Geoff Parker, Coffs Harbour Deep Sea Fishing Club, enclosing an answer to additional question, following the hearing 15 June 2010
- 19 July 2010 – From Mr Scott Flynn, Big River Bass Fly Fishing Club, enclosing an answer to additional question, following the hearing 15 June 2010
- 19 July 2010 – From Mr Alan Jeffery, Regional Manager, North Coast Region Department of Environment, Climate Change and Water, enclosing answers to question on notice and additional questions, following the hearing 15 June 2010
- 21 July 2010 – From Mr Andrew Page, Cape Byron Marine Park, enclosing answers to additional questions, following the hearing 15 June 2010
- 4 August 2010 – From Mr Ken Thurlow, Chief Executive Officer, ECOfishers, enclosing answers to additional questions on notice, following the hearing 15 June 2010
- 11 August 2010 – From Mr John Harrison, Executive Officer, Professional Fishermen’s Association, enclosing answers to additional questions on notice, following hearing 15 June 2010

16. Publication of answers to questions on notice

Resolved, on the motion of Mr Catanzariti: That, according to section 4 of the *Parliamentary Papers (Supplementary Provisions) Act 1975* and Standing Order 223(1), the Committee authorise the publication of answers to questions on notice received from: Professor Robert Kearney; Mr John Harrison; Ms Jenny Edwards; Mr Peter Grant; Mr Ian Smith; Dr Brendan Kelaher, Mr Tim Shepherd; Mr Graeme Hurst; Mr Terry Maloney; Mr Greg Davis; Mr Anthony Heiser; Mr John Williams; Mr Mark Fleming; Mr Geoff Parker; Mr Scott Flynn; Mr Alan Jeffery; Mr Andrew Page; Mr Ken Thurlow .

Resolved, on the motion of Mr Catanzariti: That the correspondence dated 17 June 2010 received from Mr D Stuart remain confidential to the Committee.

Resolved, on the motion of Ms Robertson: That according to section 4 of the *Parliamentary Papers (Supplementary Provisions) Act 1975* and standing order 223(1), the Committee authorise the partial publication of the answers to questions taken on notice and to additional questions put by the Committee received from

- Dr Philip Creagh with the response to question 6 suppressed and remaining confidential to the Committee
- Mr Ric Cumming with the names of third parties suppressed and remaining confidential to the Committee.

17. Acceptance and publication of documents tendered at the public hearings held on 15 June 2010

Resolved on the motion of Ms Voltz: That, according to section 4 of the *Parliamentary Papers (Supplementary Provisions) Act 1975* and Standing Order 224(1), the Committee accept and authorise the publication of the documents tendered by witnesses during the public hearing held on 15 June 2010.

18. Public Hearing – Inquiry into recreational fishing

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

The following witness was sworn and examined:

- Mr Ben Birt, Marine Conservation Officer

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Mr Martin Salter, UK Parliamentary Spokesman for Angling

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Mr Roy Privett, General Manager, Boating Industry Association of NSW Ltd (BIA NSW)
- Mr Doug Joyner, Executive Officer, Australian Fishing Trade Association (AFTA)

Mr Privett tendered a document entitled: Australia's Marine Protected Areas: Challenging Times Ahead, Ernst & Young, September 2006.

Mr Joyner tendered a confidential document.

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Mr Malcolm Poole, President, Recreational Fishing Alliance of NSW

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Mr Steven Samuels, President, New South Wales Council of Freshwater Anglers Inc.

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Mr Dave Thomas, Founder/President, Eco Divers
- Ms Kait McManus, Editor/Media, Eco Divers

Mr Thomas tendered sixteen photographs depicting fishing activity and fishing debris in Clifton Garden Baths

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Mr Jack Tait, President, Coastal Rights Association

Mr Tait tendered a DVD entitled: "Jervis Bay" the truth of Jervis Bay marine park science revealed

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Mr Danny Chapman, Aboriginal community representative
- Mr Andrew Nye, Indigenous fisher
- Mr Tom Butler, Indigenous fisher

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Mr Andrew Hestelow, Recreational fisher

The evidence concluded and the witness withdrew.

The public hearing concluded.

The public and media withdrew.

19. Adjournment

The Committee adjourned at 5:55 pm until 9:00 am Friday, 3 September 2010.

Rachel Simpson

Clerk to the Committee

Minutes No. 12

Friday 3 September 2010

Rooms 814/815, Parliament House, Sydney

1. Members present

Mr Brown (Chair)

Mr Catanzariti (Deputy Chair)

Mr Cohen

Mr Colless

Ms Robertson

Ms Voltz

2. Apologies

Mr Lynn

3. Correspondence

The Committee noted the following items of correspondence received:

- From Mr Hamish Malcolm, Research Officer, Solitary Islands Marine Park, enclosing answers to questions, following the hearing 15 June 2010
- From Mr Dan Bode, kayak fisher, enclosing answers to questions, following hearing 15 June 2010

Resolved, on the motion of Ms Robertson: That, according to section 4 of the Parliamentary Papers (Supplementary Provisions) Act 1975 and standing order 223(1), the Committee authorise the publication of answers to questions on notice received from Mr Hamish Malcolm and from Mr Dan Bode.

4. Publication of submission

Resolved, on the motion of Ms Robertson: That, according to section 4 of the Parliamentary Papers (Supplementary Provisions) Act 1975 and standing order 223(1), the Committee authorise the publication of Submissions 1025 to 1027.

5. Public hearing – Inquiry into recreational fishing

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

The following witness from the Department of Environment, Climate Change and Water was sworn and examined:

- Dr Kate Wilson, Executive Director, Scientific Services

The following witnesses from the Department of Environment, Climate Change and Water and from the Department of Industry & Investment were examined under their former oath:

- Mr Michael Wright, Director, Protected Areas Policy and Programs (DECCW)
- Mr Adrian Toovey, Manager, Aquatic Protected Areas Section (DECCW)
- Mr Paul O'Connor, Principal Director, Fisheries and Compliance (I & I)
- Mr Peter Turnell, Director, Fisheries Resource Management (I & I)
- Mr Bryan van der Walt, A/Manager, Recreational Fisheries Programs (I & I)

The evidence concluded and the witnesses withdrew.

The following witness was examined under his former oath:

- Professor Robert Kearney, Emeritus Professor of Fisheries, University of Canberra

Professor Kearney tendered the following documents:

- Copy of newspaper article entitled: *Marine parks will preserve recreational fishers' future*, Northern Star, 20 October 2007

- Text of letter from Professor Kearney to Editor, Coffs Advocate, dated 5 July 2010, regarding published letter to editor dated 10 June 2010 from Deputy Director General, Department of Environment, Climate Change and Water
- Copy of article entitled, *Pollutant effects on biodiversity and recruitment of aquatic animals*, Dr B K Diggles, www.digfish.com

The evidence concluded and the witness withdrew.

Mr Colless and Mr Catanzariti left the meeting.

The following witness was sworn and examined:

- Mr Darren Higgins, Accreditation Officer, Underwater Skindivers and Fishermen's Association (USFA)

The following witness was examined under his former oath:

- Mr Adrian Wayne, Vice-President, Underwater Skindivers and Fishermen's Association; Skindivers representative Advisory Council on Recreational Fishing

Mr Wayne tendered the following documents:

- Booklet entitled: *The Guide to Spearfishing in New South Wales: An essential hand-book written by divers for divers*, Australian Government, Department of Agriculture, Fisheries and Forestry, USFA, 2009
- USFA Membership application form
- The New South Wales Spearfishing Accreditation Questionnaire, Version 2.0 (May 2010)
- Bumper sticker: *Spearfishing First in Sustainability*

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Mr Max Castle, Past President and Life Member, Sea Bees Boating Club Inc, Member ACoRF

Mr Castle tendered the following documents:

- Copy of discussion notes for 11 November 2009 Marine Parks Advisory Council meeting regarding Strategic Framework for the Evaluation and Monitoring of Marine Parks in NSW and NSW Marine Parks Strategic Research Plan 2005-10 Review
- Copy of instructions and diagrammatic guide to tying knots spider hitch and cat's paw
- Copy of document entitled "*Prospect Reservoir: A freshwater recreational fishery in the heart of Sydney*."
- Copy of Marine Park Authority Acknowledgement, release and indemnity form.
- Copy of eleven images of Meroo Lake Recreational Fishing Haven

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Mr Ashley Love, President, Coffs Harbour Branch, National Parks Association of NSW

Mr Love tendered the following documents:

- *Scientists take a stick to blue tick that flags sustainable fisheries*, Sydney Morning Herald, 3 September 2010
- *Humane seafood label call*, SMH, 3 September 2010
- *Fish stocks recovering in Moreton Bay green zones*, www.abc.net.au, 2 September 2010
- *Economic value of the environment*, tasmaniantimes.com, 31 August 2010
- *Saving global fish stocks would cost 20 million jobs, says UN*, www.businessgreen.com, 23 August 2010

The evidence concluded and the witness withdrew.

The public hearing concluded.

The public and media withdrew.

6. Acceptance and publication of documents tendered during the public hearings on Monday 30 August and **Friday 3 September**
Resolved, on the motion of Ms Robertson: That, according to section 4 of the Parliamentary Papers (Supplementary Provisions) Act 1975 and standing order 223(1), the Committee accept and authorise the publication of the documents tendered by witnesses during the public hearings on 30 August and 3 September 2010.
7. **Adjournment**
The Committee adjourned at 5.10 pm until 12 November 2010.

Rachel Simpson

Clerk to the Committee

Minutes No. 13

Monday 22 November 2010

Select Committee on Recreational Fishing

Rooms 1102, Parliament House, Sydney, at 12:30pm

1. Members present

Mr Brown (Chair)
Mr Catanzariti (Deputy Chair)
Mr Cohen
Mr Colless
Mr Lynn
Ms Robertson
Ms Voltz

2. Previous Minutes

Resolved, on the motion of Mr Catanzariti: That draft Minutes No 12 be confirmed.

3. Correspondence

The Committee noted the following items of correspondence received:

- 4 September 2010 – From Mr John Harrison, Executive Officer, Professional Fishermen's Association, answers to questions on notice, from hearing 15 June 2010
- 14 September 2010 - From Mr Mick Ward, stating that the simplicity of fishing should be preserved
- 21 September 2010 – From Mr Jack Tait, President, Coastal Rights Association, answers to questions on notice, from hearing 30 August 2010
- 24 September 2010 – From Mr Max Castle, Vice President, Recreational Fishing Alliance of NSW and Sea Bees Boating Club, answers to questions on notice, from hearing 3 September 2010
- 29 September 2010 – From Steve Samuels, Vice President, NSW Council of Freshwater Anglers, answers to questions on notice, from hearing 30 August 2010
- 29 September 2010 – From Mr Ben Birt, Marine Conservation Officer, Nature Conservation Council of NSW, answers to questions on notice, from hearing 30 August 2010
- 1 October 2010 – From Mr Adrian Wayne, Vice President, Underwater Skindivers and Fishermen's Association, answers to questions on notice, from hearing 3 September 2010
- 1 October 2010 – From Mr Ashley Love, President, Coffs Harbour Branch, National Parks Association of NSW, answers to questions on notice, from hearing 3 September 2010 (Copy of attachment available on request)
- 1 October 2010 – From Mr Roy Privett, General Manager, Boating Industry Association of New South Wales, answers to questions on notice, from hearing 30 August 2010 (Copy of attachments available on request)
- 5 October 2010 – From Mr Bryan van der Walt, Industry and Investment, answers to questions on notice, from hearing 3 September 2010
- 8 October 2010 – From Mr Michael Wright, Director, Protected Area Policy and Programs, Department of Environment and Climate Change, answers to questions on notice, from hearing 3 September 2010
- 18 October 2010 – From Mr Doug Joyner, Executive Officer, The Australian Fishing Trade Association Inc., answers to questions on notice, from hearing 30 August 2010 (Copy of attachments available on request)
- 2 November 2010 – From Bev Manton, Chairwoman, New South Wales Aboriginal Land Council, providing a response to questions forwarded from the Committee.

Resolved, on the motion of Mr Colless: That according to section 4 of the Parliamentary Papers (Supplementary Provisions) Act 1975 and standing order 223(1), the Committee authorise the publication of answers to questions taken on notice received from: Mr John Harrison, Professional Fisherman's Association; Mr Ben Birt, Nature conservation Council of NSW; Mr Max Castle; Mr Steve Samuels, NSW council of Freshwater Anglers; Mr Jack Tait, Coastal Rights Association; Mr Adrian Wayne Underwater Skindivers and Fishermen's Association; Mr Ashley Love, Coffs Harbour Branch, National Parks Association of NSW; Mr Roy Privett, Boating Industry Association of NSW; Mr Bryan van der Walt, Industry and Investment; Mr Michael Wright, Department of Environment, Climate Change and Water; Mr Doug Joyner, The Australian Fishing Trade Association Inc.; and answers to questions put by the Committee received from Ms Bev Manton.

4. Publication of submissions

The Committee noted the receipt of submissions Nos 1028 to 1035 inclusive. The Committee noted that submissions Nos 1028 to 1034 were published under the authorisation of an earlier resolution.

Resolved, on the motion of Ms Catanzariti: That according to section 4 of the Parliamentary Papers (Supplementary Provisions) Act 1975 and Standing Order 223(1), the Committee authorise the partial publication of Submission Nos 677, 740, 905, 908, 1016 and 1035.

5. Consideration of Chair's draft report

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

The Committee proceeded to consider the draft report in detail.

Chapter 1 read.

Resolved on the motion of Mr Cohen: That paragraph 1.2 be amended by omitting the words "with a view to improving recreational fisheries for fishing licence holders in New South Wales." from the end of the first sentence.

Resolved, on the motion of Mr Colless: That Chapter 1, as amended, be adopted.

Chapter 2 read.

Resolved, on the motion of Ms Voltz: That the following paragraphs be inserted immediately after the chapter heading:

"New South Wales has cool high country and warm interior freshwater systems; a narrow continental shelf; and a coastline typically interspersed with rocky headlands, beaches and estuary systems. Six main recreational fishery components are recognised, namely freshwater; estuarine and coastal; diving; sportfish; charter boat; and gamefish.

A general recreational fishing licence covering both salt and freshwater was introduced in March 2001 to replace the New South Wales freshwater angling licence. Licence fees go into a trust dedicated to improving recreational fishing for New South Wales anglers. An angler expenditure committee made up of recreational fishers and major recreational fishing organisations oversees the trust.

The freshwater fishery targets a number of species using lures and baits in rivers and reservoirs. The fishery may be subdivided into eastern, western and alpine regions. Depending upon the region, the main species caught include Murry cod (*Macculllochella peelii*), golden perch (*Macquaria ambigua*), Australian bass (*Macquaria novemaculeata*), rainbow trout (*Oncorhynchus mykiss*), brown trout (*Salmo trutta*) and yabbies (*Cherax destructor*). In the late 1990s there were about 140,000 anglers with licences for this fishery.

The estuarine fishery is a multi-gear and multi-species fishery. The prominent species caught include bream (*Acanthopargus australis*), flathead (*Platycephalus fuscus*), whiting (*Sillago ciliata*), luderick (*Girella tricuspidata*), tailor (*Pomatomus saltatrix*), mulloway (*Argyrosomus hololepidotus*) and various baitfish. Fishing effort is high and it is estimated that more than 250,000 anglers take part. In addition, estuaries are utilised by many other users; hence, the allocation of resources is topical in these ecosystems.

The diving fishery harvests a number of species mainly by hand or spear in coastal marine waters, often near rocky headlands. Species harvested include red morwong (*Cheilodactylus fuscus*), rock blackfish (*Girella elevata*), leatherjackets (*Monacanthidae*), luderick, abalone (*Haliotis rubra*), rock lobster (*Jasus verreauxi*) and other shellfish.

The sportfish fishery is a multi-gear fishery operating from the shore and in inshore areas. Species targeted include tunas (*Thunnidae*), mackerels (*Scombridae*), kingfish (*Seriola lalandi*), flathead, snapper (*Pagrus auratus*), trevally (*Pseudocaranx dentex*), morwong (*Nemadactylus macropterus*), leatherjackets and various baitfish. Because of its proximity to densely populated areas and its inexpensiveness, the sportfish industry is estimated to cater to over 150,000 anglers and catch in excess of 1,000 t of fish per annum.

The charter boat industry cuts across the different habitats described previously (that is freshwater-offshore), with species caught varying accordingly. The fishery mainly involves the hire/charter of a professional guide who enhances fishing opportunities for less skilled fishers. There are in excess of 200 vessels operating along the NSW coast and the industry has the capacity to expand rapidly.

The gamefish industry occurs mainly in deeper waters adjacent to the edge of the continental shelf, where billfish (black, blue and striped marlin), tuna (albacore, yellowfin, striped) and sharks (whalers, mako, blue) are target species. Gamefishing has a strong and well-organised club component and fishing activities under the auspices of angling clubs involve an increasing emphasis on the tagging and release of caught fish, rather than their retention.

Recreational fishing in NSW is managed by catch controls (bag and size limits), restrictions on the type of gear (no fish traps or nets), closed areas and seasons and protected species. In 2002, 30 areas within estuaries were designated as recreational fishing havens, waters where no commercial fishing is allowed. Funds from recreational fishing fees were used to buy out commercial fishing licences operating in these locations. A range of additional activities is conducted to enhance recreational fishing including fish stock enhancement programs, fishing clinics and habitat conservation. Government and industry communicate and consult through meetings of statutory advisory councils, regional groups and angling associations. (source: <http://www.daff.gov.au/brs/fisheries-marine/info/descriptions-rec> accessed 21 November 2010)

Resolved on the motion of Ms Voltz: That paragraph 2.1 be amended by inserting the words "commissioned as part of *The National Recreational and Indigenous Fishing Survey* and funded by the Fisheries Research and Development Corporation, Natural Heritage Trust, and by State fisheries agencies (including the NSW Department of Primary Industries)" after the words "A 12 month study of recreational fishing".

Mr Cohen moved: That paragraph 2.1 be amended by inserting the words: "which are mainly imported" after the words "fishing related items."

Question put.

The Committee divided:

Ayes: Mr Cohen

Noes: Mr Brown, Mr Catanzariti, Mr Colless, Mr Lynn, Ms Robertson, Ms Voltz.

Question resolved in the negative.

Resolved on the motion of Ms Voltz that paragraph 2.4 be omitted, which reads:

"Inquiry stakeholders were keen to emphasise that the recreational fishing licence fee is not the only cost they incur when fishing. Mr John O'Rafferty, Recreational fisher, calculated that he had spent \$118 on a recent fishing excursion with his son on items such as fuel, ice, bait, tackle and food (Submission 582, Mr John O'Rafferty, p2). Mr Brian Rourke, Recreational fisher, claimed he spent a total of \$65,775 on fishing over the past six years, itemising his expenditure as:

- Purchase 2 Boats \$38,000.00
- Fuel..Boat..vehicle \$3,000.00
- Fishing Licence \$125.00
- Boat Rego 7 trailer \$650.00
- Boat Licence \$200.00
- Accommodation \$1,000.00
- Food \$1,500.00

- Camping equipment \$6,000.00
- Fishing gear ... Equipment \$1 5,000.00
- Bait \$500.00
- Total \$65,775.00 (*source: Submission 1031, Mr Brian Rourke, p1*)."

Resolved, on the motion of Ms Voltz: That paragraph 2.5 be amended by omitting the words "a large number of" and inserting instead "some".

Mr Cohen moved: That paragraph 2.5 be omitted, which reads:

"Boats play a key role in the expenditure of a large number of fishers. Mr Roy Privett, General Manager, Boating Industry Association of NSW, told the Committee that a recent national boat usage survey found that fishing was the primary activity of 54 per cent of boating trips at the Sydney International Boat Show" (*source: Mr Roy Privett, General Manager, Boating Industry Association of NSW, Evidence, 30 August 2010, p20*).

Question put.

The Committee divided:

Ayes: Mr Cohen, Mr Catanzariti, Ms Roberston, Ms Voltz

Noes: Mr Brown, Mr Colless, Mr Lynn

Question resolved in the affirmative.

Resolved, on the motion of Mr Cohen: That Figure 1 of a fishing rod and reel appearing below paragraph 2.8 be omitted.

Resolved, on the motion of Mr Cohen: That Figure 2, photographs of examples of land based angling appearing below paragraph 2.9 be omitted.

Resolved, on the motion of Ms Voltz: That paragraph 2.10 be amended by omitting the word "strict" appearing immediately before the word "regulations".

Resolved, on the motion of Ms Voltz: That paragraph 2.16 be amended by omitting the words "are adamant that" appearing after the word "Spearfishers" in the second sentence, and inserting instead the word "claim"; and omitting the words "the most" appearing before the words "environmentally sustainable".

Resolved, on the motion of Ms Voltz: That paragraph 2.17 be amended by omitting the words "Game Council New South Wales (Game Council) described bowfishing as" and inserting instead "Bowfishing can be described as:"

Resolved, on the motion of Mr Cohen: That paragraph 2.18 be amended by inserting the word "arrow" between the words "fish" and "heads".

Resolved, on the motion of Ms Voltz: That paragraph 2.19 be deleted, which reads:

"As a statutory body created under the Game and Feral Animal Control Act 2002 the Game Council believes it should be responsible for training and accrediting individuals who practice bowfishing for carp, as well as monitoring compliance issues." (*Source: Submission No 29, p3.*)

Resolved, on the motion of Mr Colless: That paragraph 2.22 be amended by inserting the words "Murray Cod is also a common freshwater species" at the end of the second sentence.

Resolved, on the motion of Ms Voltz: That paragraph 2.23 be deleted, which reads:

A large number of recreational fishers told the Committee that they practiced 'catch and release' as a conservation technique. Recent research has demonstrated that most fish survive using catch and release techniques (*Source: Industry & Investment NSW, Catch and release fishing, accessed 23 September 2010, <http://www.dpi.gov.au/fisheries/recreational/saltwater/catch-and-release>*)

Resolved, on the motion of Ms Voltz: That paragraph 2.24 be amended by omitting the words: "Fishers can take additional precautions, such as using artificial lures and using tuna circle hooks to ensure" and inserting instead: "Some recreational fishers believe using artificial lures and tuna circle hooks ensure".

Mr Cohen moved: That paragraph 2.26 be amended by omitting the fourth bullet point: "Port Stephens ECOfishers".

Question put.

The Committee divided:

Ayes: Mr Cohen, Mr Catanzariti, Ms Robertson, Ms Voltz

Noes: Mr Brown, Mr Colless, Mr Lynn

Question resolved in the affirmative.

Mr Cohen moved: That paragraph 2.27 be amended by omitting the seventh bullet point: "ECOfishers".

Question put.

The Committee divided:

Ayes: Mr Cohen, Mr Catanzariti, Ms Robertson, Ms Voltz

Noes: Mr Brown, Mr Colless, Mr Lynn

Question resolved in the affirmative.

Resolved, on the motion of Ms Robertson: That paragraph 2.28 be amended by omitting the words: "difficult to achieve a comprehensive representative system" and inserting instead "difficult to achieve comprehensive representation".

Resolved, on the motion of Ms Voltz: That paragraph 2.30 be amended by omitting the word "Another" at the start of the paragraph and inserting instead: "Some clubs believe a", and by omitting the words: "such as Mr Peter Craig, recreational fisher, are" in the second sentence and inserting instead: "are often".

Mr Cohen moved: That paragraph 2.30 be amended by omitting the second sentence.

Question put.

The Committee divided:

Ayes: Mr Cohen

Noes: Mr Brown, Mr Catanzariti, Mr Colless, Mr Lynn, Ms Robertson, Ms Voltz

Question resolved in the negative.

Resolved, on the motion of Ms Voltz: That paragraph 2.31 be amended by inserting the words: "also noted that they" between the words "clubs" and "participate" in the first sentence; and by inserting the word "financial" before the word "assistance", and inserting the word "NSW" before the word "government" in the second sentence and wherever it appears throughout the report.

Resolved, on the motion of Ms Voltz: That paragraph 2.32 be amended by omitting the word "6000" appearing between the words "The" and "members" in the fourth sentence.

Resolved, on the motion of Ms Voltz: That Chapter 2, as amended, be adopted.

Chapter 3 read.

Resolved, on the motion of Ms Voltz: That the title of Chapter 3 be amended by omitting the words "The threats to fish stocks and" and inserting instead: "Threats to".

Resolved, on the motion of Ms Voltz: That paragraph 3.1 be amended by omitting the words "threats to fish stocks and biodiversity" in the first sentence and inserting instead "threats to marine biodiversity, and in particular fish stocks."

Resolved, on the motion of Mr Cohen: That paragraph 3.5 be amended by inserting the word "(shamateurs)" at the end of the second bullet point.

Resolved, on the motion of Mr Cohen: That paragraph 3.7 be amended by inserting the words: "and sewerage and associated chemical pollutants" after the word "litter" at the end of the third sentence.

Resolved, on the motion of Mr Cohen: That paragraph 3.12 be amended by omitting the words: "poor land management practices" and inserting instead "and land management practices such as agriculture, urbanisation, mangrove and forest clearing where they are inappropriate."

Resolved, on the motion of Ms Voltz: That paragraph 3.13 be amended by omitting the italicisation of the word "estimated" appearing in the fourth sentence.

Resolved, on the motion of Mr Cohen: That paragraph 3.17 be amended by omitting the words: "While this threat is both acknowledged and abhorred by the recreational sector itself, it should also be noted that the compliance level of recreational fishers is approximately 88 per cent." and inserting instead "This threat is acknowledged by the recreational fishing sector itself. It should also be noted that the compliance level of recreational fishers is approximately 88 per cent of those inspected."

Resolved, on the motion of Mr Cohen: That paragraph 3.25 be amended by omitting the sentence appearing at the end of the paragraph which reads: "It must also be noted that on many occasions when people go fishing they come back empty-handed."

Resolved, on the motion of Ms Voltz: That paragraph 3.34 be amended by inserting the words: "who appeared before the Inquiry" between the words "fishers" and "believe" in the first sentence, and by omitting the words "It was often" and inserting instead the word "They" at the start of the second sentence.

Mr Voltz moved: That paragraph 3.36 be amended by omitting the words: "The strongest call for greater size limits and smaller bag sizes came from recreational fishing advocates and recreational fishers themselves. For example," at the start of the paragraph.

Question put.

The Committee divided:

Ayes: Mr Catanzariti, Mr Cohen, Ms Robertson, Ms Voltz

Noes: Mr Brown, Mr Colless, Mr Lynn.

Question resolved in the affirmative.

Resolved, on the motion of Ms Voltz: That paragraph 3.40 be amended by omitting the words: "In a number of submissions the Committee's attention was drawn to" and inserting instead: "A number of submissions referred to".

Resolved, on the motion of Ms Voltz: That paragraph 3.41 be amended by inserting the words: "which is easily obtainable" after the first appearance of the word "data" in the first sentence.

Resolved, on the motion of Ms Robertson: That paragraph 3.41 be amended by omitting the words: "an extrapolation of" appearing between the words "primarily" and "data" at the end of the first sentence.

Ms Voltz moved: That paragraph 3.45 be amended by omitting the words: "Dr Philip Creagh, Chair, Narooma Port Committee, also referred to the resilience of fish stocks to the effects of simple extraction. Dr Creagh noted that the fur seal colony at Montague Island had increased dramatically over the last 30 years. He said the colony now annually consumed 5,000 tonnes of fish and squid per year which is approximately the same as the estimated annual recreational catch. Despite this increase in consumption by the seal colony, there has been no discernible decrease in fish stocks in the area." (*Source: Dr Philip Creagh, Chair, Narooma Port Committee, Evidence, 26 May 2010, p20*)

Question put.

The Committee divided:

Ayes: Mr Cohen, Mr Catanzariti, Ms Robertson, Ms Voltz

Noes: Mr Brown, Mr Colless, Mr Lynn.

Question resolved in the affirmative.

Resolved, on the motion of Ms Voltz: That paragraph 3.46 be amended by omitting the words: "Professor Kearney argued that fishing will not threaten the collapse of a fish stock when effective fisheries management is in place. However, while recreational fishing in itself might not be the cause for a decline in a species, he did see the need to constrain recreational fishing in circumstances when the collective threats to a species were too great: and by removing the following quote: "I would like to see recreational catches of some other species reined in because I think the collective threats to some of them are fairly great. Snapper is one that worries me. I think the snapper catch is excessive. I think we need to rein that in. As I said, mullocky is the species that worries me most. Most of the species are in no danger of collapse. It is largely a myth that fishing will make them collapse. It very rarely happens. It happens in countries where there is no fisheries management. It does not happen in most others." and inserting it instead at the end of paragraph 3.36.

Resolved, on the motion of Ms Voltz: That paragraphs 3.53 to 3.62 be moved to immediately after the section heading "The status of New South Wales fish stocks".

Resolved, on the motion of Mr Cohen: That the words in paragraph 3.58 be moved to the end of paragraph 3.57.

Resolved, on the motion of Ms Voltz: That paragraph 3.73 be amended by omitting the words: "including ECOfishers NSW" appearing between the words "participants" and "were" in the first sentence.

Resolved, on the motion of Mr Cohen: That paragraph 3.74 be amended by omitting the words "While it appears that" at the start of the paragraph; and by omitting the words: "the Committee heard evidence from a participant in the recovery program that" and inserting instead "A participant in the recovery program stated that".

Resolved, on the motion of Ms Voltz: That paragraph 3.77 be omitted, which reads:

"The Committee notes that the recreational sector was willing and eager to embrace greater restrictions in order to help preserve the species. It further notes that it is likely that there are environmental factors that did or are contributing to the noted decline in the species but that these are not addressed within the scope of a fisheries management recovery plan."

Resolved, on the motion of Ms Voltz: That paragraph 3.78 be amended by omitting the word: "many" appearing between the words "were" and "calls" in the second sentence.

Mr Cohen moved: That paragraph 3.87 be omitted.

Question put and negated.

Ms Voltz moved: That paragraph 3.87 be amended by omitting the quote appearing at the end of the paragraph which read:

"There are also reasonably good suggestions that the species is making a comeback. More juveniles are being observed in areas in which they were not observed before. There are more aggregation sites being found than were found before outside marine parks. I do not have much doubt that this is a classic case where angler and spear fisher education was the primary reason and remains the primary reason for the relative improvement in the species. You have to remember that spear fishers used to target grey nurse sharks and slaughter them. They did. They do not any more. They have been told, they have learnt and they do not do it any more. Until not that long ago grey nurse sharks used to be on the official list of game fish species to be targeted by game fishermen in New South Wales. They used to go and actively target them and weigh them in game fishing competitions. That is not ancient history. One of the fishing representatives might tell me, but I think it is about 20 years ago that the practice stopped. Anglers have learnt and fishermen have learnt and, in my opinion, provided we continue to learn and monitor, get anglers and spear fishers to be responsible about it and point out the importance of it, I do not have much doubt that it will continue to improve whether or not we have marine parks." (*Source: professor Kearney, Evidence, 27 April 2010, p 19*)

Question put.

The Committee divided:

Ayes: Mr Cohen, Mr Catanzariti, Ms Robertson, Ms Voltz

Noes: Mr Brown, Mr Colless, Mr Lynn

Question resolved in the affirmative.

Mr Cohen moved that: Paragraph 3.89 be omitted.

Question put and negatived.

Resolved, on the motion of Ms Robertson: That paragraph 3.89 be amended by omitting the words "also argued" appearing in the first sentence and inserting instead: "reflected a widely held belief by recreational fishers".

Ms Voltz moved: That paragraph 3.90 be omitted, which reads:

"While generally critical of the establishment of Marine Parks, Professor Kearney allowed that area protection within them would most likely provide some benefit to the GNS if threats are properly identified and areas carefully selected: 'It would be expected that area management could benefit endangered species if the threats are properly identified and the areas carefully selected. The grey nurse shark is the threatened species most often stated to be a justification for marine parks in NSW and that species is one for which closed areas may be providing some benefit...Noting the mobility of the species it will remain essential that it be managed across the whole of its distribution and not just in marine parks.'" (*Source: Answers to questions on notice, Professor Kearney*)

Question put.

The Committee divided:

Ayes: Mr Cohen, Mr Catanzariti, Ms Robertson, Ms Voltz

Noes: Mr Brown, Mr Colless, Mr Lynn

Question resolved in the affirmative.

Ms Voltz moved: That paragraph 3.98 be amended by moving the first sentence to the end of paragraph 3.97, and by omitting the words: "Professor Kearney's Response to ACoRF on the Torn Blue Fringe: Marine Conservation in NSW cites another study which gives a snapshot of interaction between GNS and fishers: 'More recent published research provides a census (a count of sharks identified as different individuals) of a minimum of 927 individual sharks (approximately double earlier estimates) at a total of 24 sites in NSW (Bansemmer and Bennett 2008a). This same study detected that 145 of these sharks had visible retained fishing tackle, or a jaw wound presumably resulting from fishing tackle.'" (*Source: Kearney, R, Response to ACoRF on the Torn Blue Fringe: Marine Conservation in NSW (Winn 2008), March 2009, p45*)

Question put.

The Committee divided:

Ayes: Mr Cohen, Mr Catanzariti, Ms Robertson, Ms Voltz

Noes: Mr Brown, Mr Colless, Mr Lynn

Question resolved in the affirmative.

Resolved, on the motion of Mr Cohen: That paragraph 3.101 be amended by omitting the first sentence which reads: "It appears that the GNS population is greater than the official estimate, but by what magnitude is unknown." and by omitting the word "also" appearing between the words "was" and "difficult" in the second sentence.

Resolved, on the motion of Ms Robertson: That paragraph 3.101 be amended by omitting the sentence: "Using only the study referred to above in section 3.98 it could be projected that 15.6 per cent of GNS are likely to interact with fishing tackle."

Mr Cohen moved: That paragraph 3.102 be omitted which reads: "There is no evidence to support extensions or expansions of GNS exclusion zones."

Question put.

The Committee divided:

Ayes: Mr Cohen, Mr Catanzariti, Ms Robertson, Ms Voltz

Noes: Mr Brown, Mr Colless, Mr Lynn

Question resolved in the affirmative.

Resolved, on the motion of Ms Voltz: That paragraph 3.126 be amended by omitting the words: "(although the Committee questions how useful this is given that nobody knows exactly how many fishers there are of the size of their catch)".

Resolved, on the motion of Ms Voltz: That paragraph 3.128 be amended by omitting the second sentence which reads: "The common argument was that the recreational sector cannot be adequately regulated unless an accurate assessment of its collective take is known." (*Source: For example: Professor Booth, Evidence, 27 April 2010, p2; Mr Leslie Cheers, commercial fisher, Evidence, 4 May 2010, p51*)

Resolved, on the motion of Ms Robertson: That recommendation 2 be amended by omitting the words: "at least once" appearing between the words "undertaken" and "every" in the first sentence, and by omitting the last sentence: "This funding should not come from the Recreational Fishing Trusts."

Mr Cohen moved: That an additional recommendation be inserted immediately following Recommendation 2, to read:

"That the NSW Government fund and commission through the Recreational Fishing Trusts, an Environmental Impact Statement (EIS) to review and evaluate the recreational fishing catch and effort in NSW waters."

Resolved, on the motion of Ms Robertson: That the motion of Mr Cohen be amended by omitting the words: "fund and commission through the Recreational Fishing Trusts" and inserting instead "consider funding and commissioning".

Original question, as amended, put and passed.

Mr Cohen moved: That an additional recommendation be inserted immediately following Recommendation 2 to read:

"That the NSW Government formulate an inter-departmental Working Group consisting of Industry and Investment NSW, Department of Environment, Climate Change and Water and the Department of Premier and Cabinet to review recreational bag and size limits at the finalisation of an Environmental Impact Statement."

Question put and negatived.

Resolved, on the motion of Ms Voltz: That paragraph 3.140 be amended by inserting the word "Many" at the start of the paragraph, and by omitting the words "in particular" appearing between the words "sectors" and "emphasised" in the first sentence, and by omitting the words "to fish stocks and marine biodiversity" and inserting instead "to marine biodiversity including fish stocks".

Ms Voltz moved: That paragraph 3.141 be omitted, which reads:

"In Response to ACORF on the Torn Blue Fringe: Marine Conservation, the author Professor Kearney argued that the Government's first priority should be the protection of freshwater environments and not the declaration of Marine Parks: "...the agreement that freshwater environments should be protected is not the subject of marine parks, but it is a matter of conservation importance that arguably should be given more urgency in NSW than even estuarine or marine environments...The freshwater ecosystems of NSW are in a dire situation. This is openly acknowledged by all Australian governments in relation to the Murray Darling system, but also highlighted by the grossly disproportionate number of species of freshwater fish in the numerous categories of threatened or endangered. Even though the number of species in our freshwater systems is many times less than that in our marine and estuarine environments, 75% of the 56 fish species in Australia that are classified from critically endangered to vulnerable are fresh water species. If the NSW Government adheres to its commitment to adopt measures in proportion to the significance of the problem, its first priority should be the protection of freshwater environments ahead of the declaration of marine parks." (*Source: Kearney, R, March 2009, p16*)

Question put.

The Committee divided:

Ayes: Mr Cohen, Mr Catanzariti, Ms Robertson, Ms Voltz

Noes: Mr Brown, Mr Colless, Mr Lynn

Question resolved in the affirmative.

Resolved, on the motion of Ms Voltz: That paragraph 3.144 be amended by omitting the words "if not the primary" appearing between the words "serious" and "threat" in the first sentence.

Resolved, on the motion of Ms Voltz: That paragraphs 3.145 to 3.149 inclusive be moved to appear immediately after the section heading "Environmental threats".

Resolved, on the motion of Ms Voltz: That paragraph 3.156 be amended by moving the words "the Clarence River prawn season failed this year" from the start of the paragraph and inserting them after the words "told the Committee".

Resolved, on the motion of Ms Voltz: That paragraph 3.175 be omitted, which reads:

"The Committee notes that since Mr Westaway's evidence, a further major fish kill has occurred at Wakool."

Resolved, on the motion of Ms Voltz: That paragraph 3.176 be omitted, which reads:

"The Committee is not inquiring into the relative merits of Marine Parks versus other elements of an ecosystems based approach to maintaining sustainable fisheries – it is not a 'one or the other' situation. Most participants from the recreational and commercial fishing sectors did emphasise they supported the concept of Marine Parks if established appropriately and managed correctly. The Committee is inquiring into the efficacy of existing Marine Protected Areas and Marine Parks – and this is examined in the next Chapter."

Mr Cohen moved: That paragraph 3.177 be omitted, which reads:

"However, when representatives from both the recreational and commercial fishing sectors raised the threats posed by land-based impacts on fish stocks and marine biodiversity, there was an inherent argument that the Government needed to focus on these 'real' threats rather than focus on Marine Parks and other restrictions on fishing activity as the means by which to protect fish stocks. It was also argued that the money spent on creating and administering Marine Parks would be better directed towards habitat restoration and addressing land-based impacts."

Question put.

The Committee divided:

Ayes: Mr Cohen, Mr Catanzariti, Ms Robertson, Ms Voltz

Noes: Mr Brown, Mr Colless, Mr Lynn

Question resolved in the affirmative.

Resolved, on the motion of Ms Voltz: That paragraph 3.178 be amended by omitting the words: "There was an apparent view among many" and inserting instead "There was a view among some".

Resolved, on the motion of Ms Voltz: That paragraph 3.200 be amended by moving the first sentence "Mr Harrison said that this would not happen without additional funding." to the end of paragraph 3.199, and by omitting the remaining words: " His view was echoed by Mr Thurlow, who said that farmers are willing but will not act unless they are provided the money to do so: 'We cop the argument first of all that you cannot grow grass in shade and you cannot fatten cattle in shade. I understand that. However, because the cattle are accessing the creeks and riverbanks, they are eroding the banks. There is no vegetation there to keep the banks stable. As a result, every freshwater flood they lose some of their paddocks through erosion. The group on the Manning River that I spoke to are happy to fall into line with riparian revegetation, but they want to know who will pay. I told them that they are protecting a community asset, so the taxpayers should pay. They are happy with that. If they are asked to pay for restoring riparian vegetation, fencing it and providing offsite watering, it will not happen.'" (*Source: Mr Thurlow, Evidence, 15 June 2010, p71*)

Resolved, on the motion of Ms Voltz: That paragraph 3.203 be amended by omitting the words "On the basis of the evidence received it would appear that an annual allocation of \$400,000 out of \$13 million does not adequately represent" and inserting instead "A significantly greater proportion of the \$13 million is required to represent".

Resolved, on the motion of Mr Cohen: That recommendation 3 be amended by omitting the words "That additional funding be allocated from the Recreational Fishing Trust Fund to support rehabilitation and restoration of aquatic habitat, in particular wetlands, and that this funding should be augmented with funds provided through the Environmental Trust." and inserting instead: "That the Recreational Fishing Trusts provide a greater allocation of available funds to rehabilitation and restoration of aquatic habitat and establish formal Memoranda of Understanding and funding arrangements with relevant Catchment Management Authorities to undertake inland river, estuary and coastal pollution reduction programs."

Resolved, on the motion of Mr Colless: That Chapter 3, as amended, be adopted.

Mr Lynn left the meeting.

Chapter 4 read.

Resolved, on the motion of Ms Voltz: That paragraph 4.1 be amended by inserting the words "and habitat areas" at the end of the first sentence; and by omitting the words "the recreational fishing sector" and inserting instead "recreational fishing organisations" in the third sentence.

Resolved, on the motion of Ms Voltz: That paragraph 4.5 be amended by inserting the words "According to Mr Peter Hemmings, Member, Hat Head Bowling and Recreational Amateur Fishing Club" at the start of the paragraph.

Resolved, on the motion of Ms Voltz: That a new paragraph be inserted after paragraph 4.7, which to read: "It should be noted that some marine parks already implement seasonal closures as part of their marine park management."

Resolved, on the motion of Ms Voltz: That paragraph 4.9 be amended by omitting the words "Contrary to this view" appearing at the start of the paragraph.

Resolved, on the motion of Mr Colless: That paragraph 4.11 be amended by omitting the words "to achieve" and inserting instead "with the objective of achieving".

Resolved, on the motion of Ms Voltz: That paragraph 4.27 be amended by omitting the words "There was some confusion and concern among inquiry participants as to what NSW was required to do in order to meet these commitments."

Resolved, on the motion of Ms Voltz: That the text of paragraph 4.28 be incorporated at the end of paragraph 4.27.

Ms Voltz moved: That paragraph 4.34, including the quote, be omitted, which reads:

"A 2010 report from the Western Australian Department of Fisheries said there was a high level of ambiguity concerning what constitutes a marine protected area, and that from the Australian public's perspective the term is often assumed to refer only to sanctuary zones. The report argues that many fishery management closures can be considered as marine protected areas under the IUCN guidelines:

"There is also a high level of ambiguity about what constitutes a marine protected area. In their review paper, Ward et al (2001) stated MPAs may take many forms, and confer different levels of protection for biodiversity, depending on the uses permitted and the type and extent of management applied. For example the spatial closures referred to as MPAs in many published studies (eg Gell & Roberts 2003) are actually specific fishery closures – that is they were not closed to all fishing activities, and were implemented to assist the management of a specific stock. In this context, the numerous spatial and temporal closures already implemented under fisheries legislation in Western Australia would be considered 'MPAs' under the IUCN guidelines. Using this broader definition, a high proportion of the WA coastal shelf waters (even more for sensitive inshore habitats) would be classed as already being 'protected' by MPAs.

It is evident, however, that from the Australian public's perspective, the term MPA is assumed to refer only to fully 'no-take' sanctuary areas (that is, not even an entire marine park), where no extractive

activities are permitted (that is equivalent to many terrestrial national parks). These are generally the most contentious form of MPA, but are the only category that many Australian conservation lobby groups consider to be 'worthwhile' (Fletcher 2003). Whilst often small in area they can, nonetheless, generate significant social or economic benefits &/or controversy especially where this results in the displacement of historical activities, for example sustainable fishing activities.'" (*Source: Government of Western Australia, Department of Fisheries, The efficacy of sanctuary areas for the management of fish stocks and biodiversity in WA waters, Fisheries Research Report, No 169, 2010*)

Question put.

The Committee divided:

Ayes: Mr Cohen, Mr Catanzariti, Ms Robertson, Ms Voltz

Noes: Mr Brown, Mr Colless

Question resolved in the affirmative.

Resolved, on the motion of Ms Voltz: That paragraph 4.36 be amended by omitting the words: "On advice received from the Department of Environment, Climate Change and Water (DECCW) it appears that NSW has a comparatively high percentage of its waters in high protection zones." and inserting instead "The DECCW provided some comparative figures on the amount of coastal waters under a high level of protection for Western Australia, Victoria and New Zealand."

Resolved, on the motion of Ms Robertson: That paragraph 4.38 be amended by omitting the words "evidence on this matter" and inserting instead "opinions on the appropriateness of the NSW Government's priorities in relation to this matter."

Mr Cohen moved: That paragraph 4.40 be amended by omitting the second paragraph of the quote, which reads:

"...We advocate 20 per cent in that document [The Torn Blue Fringe] and we systematically identify how it can be achieved, that is, 20 per cent of New South Wales State waters be included in sanctuary zones within marine parks. Other groups have gone to 30 per cent. Quite a group of scientists are now even saying it should be 30 to 50 per cent in marine parks."

Question put.

The Committee divided:

Ayes: Mr Cohen, Mr Catanzariti, Ms Robertson, Ms Voltz

Noes: Mr Brown, Mr Colless

Question resolved in the affirmative.

Ms Voltz moved: That paragraph 4.41 be omitted, which reads:

"Mr Love advised that he was involved with a group working on a position with respect to the federal East Marine Bioregion Project. He said that due to the criticism attracted by the publication of the Torn Blue Fringe, the details of his group's recommendations regarding the size and location of sanctuary zones will not be made public prior to presentation to the federal Government: 'We have collected all our data, put it in a computer and drawn a map. That map gets locked up in a suitcase and dumped on Garrett's desk. We are never going to go public again with our conservation proposals because of the inappropriate response. The over-the-top criticism of this report, which was done because the Government was not doing its job, has put us back into the locker room. We pull out the map when we get to Garrett's desk. It is 40 per cent of that region and we are never going to show it to anyone other than Garrett.'" (*Source: Mr Love, Evidence, 3 September 2010, p67*)

Question put.

The Committee divided:

Ayes: Mr Cohen, Mr Catanzariti, Ms Robertson, Ms Voltz

Noes: Mr Brown, Mr Colless

Question resolved in the affirmative.

Resolved, on the motion of Ms Robertson: That paragraph 4.43 be amended by inserting at the start of the paragraph the words "The ACoRF commissioned Professor Kearney to critique the National Parks Association document *The Torn Blue Fringe*."

Resolved, on the motion of Ms Voltz: That paragraphs 4.45, 4.47 and 4.46 be moved to appear, in that order, immediately after the section heading "What are New South Wales targets or requirements?"

Mr Cohen moved: That paragraph 4.49 be omitted, which reads:

"The Committee concludes that there are no formal quantitative requirements for the establishment of sanctuary zones within marine protected areas. Notwithstanding this there is an apparent understanding that they will be included in marine parks. The Committee also notes, on the basis of the advice it received (cf paragraph 4.36), that NSW has a comparatively high percentage of its waters established as sanctuary zones."

Question put.

The Committee divided:

Ayes: Mr Cohen, Mr Catanzariti, Ms Robertson, Ms Voltz

Noes: Mr Brown, Mr Colless

Question resolved in the affirmative.

Ms Voltz moved: That paragraph 4.55 be omitted, which reads:

"Many recreational fishers believe that the decisions not to establish a marine park in the Hawkesbury bio-region and instead have additional parks in other bio-regions were made on political rather than scientific considerations. It was variously put that the decision to establish the Batemans Marine Park was made in order to secure preferences from the Greens during elections, or that the Government was unwilling to establish marine parks in areas which encompassed seats held by ALP members." (*Source: Mr Robert Smith, Chairman, The Fishing Party, Evidence, 5 May 2010, p2*)

Question put.

The Committee divided:

Ayes: Mr Cohen, Mr Catanzariti, Ms Robertson, Ms Voltz

Noes: Mr Brown, Mr Colless

Question resolved in the affirmative.

Resolved, on the motion of Ms Voltz: That paragraph 4.57 be amended by omitting the words "expressed the view that it was inevitable that new marine parks would be established some time in the future: "The governments of New South Wales in the future will be introducing new marine parks. They are bound to do that in legislation, in agreements and covenants with the Federal Government. So, it is going to happen. Whether it happens this year or in 10 years time does not matter. So, you could expect a debate around Hawkesbury, around Eden and around other parts of New South Wales." And inserting instead: "expressed his opinion that the establishment of additional marine parks is inevitable."

Resolved, on the motion of Ms Voltz: That paragraph 4.61 be omitted, which reads:

"It became clear at the public hearing in Port Macquarie that many based this conviction on the recommendations made within the NPA document *The Torn Blue Fringe*. This document calls for the establishment of 10% of all comprehensively mapped NSW marine habitats and ecosystems in marine sanctuaries by 2011 and 20% by 2020. The document identified specific areas that should be protected." And replaced with: "It became clear during the public hearings that a document by a non-government organisation the NPA had been widely circulated to recreational fishing organisations by those opposed to marine parks. Recreational fishers were given the impression that this document was part of a government process to review marine parks – which it was not. The circulation of this impression caused considerable distress to recreational fishers. Many of the witnesses were not aware of the statements of the NSW Government that they would not be establishing any more marine parks."

Resolved, on the motion of Ms Voltz: That paragraph 4.63 be omitted, which reads:

"Concern was caused by the belief that because the document had been presented to the State Government for perusal, this equated to endorsement by the Government. (for example: Mr Britten, Evidence, 5 May 2010, p19) For some witnesses this concern was exacerbated because they were not aware of the statement by the NSW State Government that it was not intending to establish any more marine parks. (Source: *Submission 1007, NSW Government, p1*)"

Resolved, on the motion of Ms Voltz: That paragraph 4.65 be amended by omitting the words: "the Committee was also confronted by the fear of a number of witnesses" and inserting instead "some witnesses raised concerns about the prospect".

Ms Robertson moved: That the heading immediately before paragraph 4.67 and paragraphs 4.67 to 4.70 inclusive be omitted, which read:

"Marine Parks Amendment (Moratorium) Bill 2010

On 3 June 2010 the Hon Robert Brown MLC, on behalf of the Shooter & Fishers Party introduced the Marine Parks Amendment (Moratorium) Bill in the Legislative Council of the NSW Parliament. The bill provides for a five year moratorium on the declaration of additional marine parks and prevents the Government from making a regulation that would extend the area within a marine park that comprises a sanctuary zone during the five year period.

In the initial debate The Hon Robert Brown MLC said there is enormous division in the community about marine parks and their value and referred to two petitions received in Parliament with more than 20,000 signatures opposing the creation of marine parks. During the Inquiry the President of the Coffs Harbour-Bellingen Branch of the NSW National Parks Association said that the environment movement interested in marine conservation had for the first time ever marshalled together to oppose the passage of the Bill."

During the resumed second reading debate on the Bill on 24 June 2010 the Hon John Robertson MLC said the Government did not oppose the Bill, as it had made it clear that it has no intentions to establish additional marine parks at this time. However, the Government indicated that it intended to move amendments to the Bill to ensure the moratorium excludes any changes to the zoning plans for the Solitary Islands and Jervis Bay marine parks, whose zoning plans were currently under review and community consultation.

The debate on the Bill was adjourned on the 24 June 2010 and had not resumed at the time of the publishing of this report. In October 2010 it was reported in the media that debate on passage of the Bill was unlikely to resume as the Government had indicated it would no longer support a moratorium on marine parks in any form. This position may serve to reinforce the belief of many inquiry stakeholders that there are plans to establish more marine parks."

Question put.

The Committee divided:

Ayes: Mr Cohen, Mr Catanzariti, Ms Robertson, Ms Voltz

Noes: Mr Brown, Mr Colless

Question resolved in the affirmative.

Resolved, on the motion of Ms Voltz: That the report section entitled "Whether more marine parks will be established in NSW" be moved to appear immediately following the description of the current marine parks within the section entitled "Marine Parks in New South Wales".

6. Extension of reporting date

Resolved, on the motion of Ms Voltz: That the Chair, on behalf of the Committee, seek the agreement of the House to extend the reporting date for the Select Committee on Recreational Fishing until Friday 10 December 2010.

7. Adjournment

The Committee adjourned at 6:00 pm, until 1:30pm on Monday 29 November

Rachel Simpson

Clerk to the Committee

Minutes No. 14

Monday 29 November 2010

Select Committee on Recreational Fishing

Rooms 1102, Parliament House, Sydney, at 1:36pm

1. Members present

Mr Brown (Chair)

Mr Catanzariti (Deputy Chair)

Mr Cohen

Mr Colless

Mr Lynn

Ms Robertson

Ms Voltz

2. Previous Minutes

Resolved, on the motion of Mr Colless: That draft Minutes No 13 be confirmed.

3. Consideration of Chair's draft report

The Committee continued to consider Chapter 4 of the draft report.

Ms Voltz moved: That paragraph 4.79 be amended by omitting the final sentence and quote, which read:

"The editor of *Fishing World*, Mr James Harnwell noted that a great deal of the coastline is not accessible, and that it is unfortunate that marine parks are located in relatively populated areas:

New South Wales obviously has a vast coastline and sanctuary zones are only a very, very small part of that. But it comes down to access. A lot of the coastline is completely inaccessible because it is miles away from anywhere either by boat, by car or by foot. Marine parks tend to be in areas that are relatively populated." (*Source Mr James Harnwell, Editor and Publisher, Fishing World, Evidence, 29 April 2010, p 19.*)

Question put.

The Committee divided:

Ayes: Mr Catanzariti, Mr Cohen, Ms Roberston, Ms Voltz

Noes: Mr Brown, Mr Colless, Mr Lynn

Question resolved in the affirmative.

Resolved, on the motion of Ms Voltz: That a new paragraph be inserted after paragraph 4.88 to read:

"The Committee notes that some marine parks include fishing from beaches out to 100 metres within some sanctuary zones to allow land based recreational fishers to continue fishing from popular spots."

Mr Cohen moved: That paragraph 4.89 be omitted, which reads:

"The Committee also heard evidence from many individuals who were part of the respective Marine Park Advisory Councils at the time and involved in the original development of zoning plans. A general criticism was that while debate occurred on the size and location of zones, particularly sanctuary zones, there was not room for debate on alternatives to the creation of these zones."

Question put.

The Committee divided:

Ayes: Mr Catanzariti, Mr Cohen, Ms Roberston, Ms Voltz

Noes: Mr Brown, Mr Colless, Mr Lynn

Question resolved in the affirmative.

Ms Voltz moved: That paragraph 4.98 be omitted, which reads:

"As is discussed later in this chapter, the Independent Review of marine park science identified socio-economic evaluation of marine parks as an information gap in the strategic framework and that research

into this area required more emphasis than it was given in the past." (*Source Professor Peter Fairweather et al, Marine Park Science in NSW – An Independent Review, Marine Park Advisory Council NSW, December 2009, pp 27-28.*)

Question put.

The Committee divided:

Ayes: Mr Catanzariti, Mr Cohen, Ms Roberston, Ms Voltz

Noes: Mr Brown, Mr Colless, Mr Lynn

Question resolved in the affirmative.

Resolved, on the motion of Ms Voltz: That paragraphs 4.100 and 4.101 be omitted, which read:

"As will be examined later in this chapter, the Government is undertaking a comprehensive sea-bed habitat mapping program that will inform current and future zoning plan reviews. A number of inquiry participants argued that habitat mapping should have been completed prior to any initial zoning plan being undertaken. The Independent Review noted that it was vital that the habitat mapping program continue to provide complete coverage of all marine parks."

"The Manager of PSGLMP, Mr Haste said that a small percentage of the marine park had been habitat mapped as part of the initial zoning process which was focused around the key areas where information was required. Mr Haste told the Committee he hoped to have the majority of the park area habitat mapped prior to the initial rezoning process due in two year's time." (*Source Mr Haste, Evidence, 4 May 2010, p 38.*)

Resolved, on the motion of Ms Robertson: That paragraph 4.102 be amended by omitting the word "now" appearing immediately before the word "occur."

Mr Cohen moved: That paragraph 4.103 be amended by omitting the final sentence and quote, which read:

"In evidence, Professor Kearney gave voice to the typical frustration of those dissatisfied with the marine park zoning process:

In the current review of the Solitary Islands Marine Park no scientific evidence is given to support current proposals to increase the area of sanctuary zones and to completely ban prawn trawling in the park. The whole of the documentation to support the review of the zoning arrangements in the park contains no science really relevant to this issue, and absolutely no demonstration of any benefits from the existing zoning arrangements. So why change them? No increases or restrictions on fishing of any form have been justified. It is yet another example of management based on preconceived wrong concepts, and a failure to provide adequate or appropriate science to support these decisions." (*Source Professor Robert Kearney, Emeritus Professor of Fisheries, University of Canberra, Evidence, 3 September 2010, p 35.*)

Question put.

The Committee divided:

Ayes: Mr Catanzariti, Mr Cohen, Ms Roberston, Ms Voltz

Noes: Mr Brown, Mr Colless, Mr Lynn

Question resolved in the affirmative.

Resolved, on the motion of Ms Robertson: That paragraph 4.106 be amended by omitting the word "heated" immediately before the word "debate."

Resolved, on the motion of Mr Cohen: That paragraph 4.107 be amended by omitting the words "it is evident that" appearing immediately before the word "for."

Resolved, on the motion of Ms Voltz: That paragraph 4.107 be amended by omitting the word "all" and inserting instead "some".

Resolved, on the motion of Ms Voltz: That a new paragraph be inserted after paragraph 4.107 to read:

"These views should be weighed up against surveys undertaken by the Marine Park Authority that show support for sanctuary zones both by the public and recreational fishers. In his submission to the Inquiry Mr Carr noted:

An independent phone survey undertaken in the Shaolhaven in January 2008 comprising 402 interviews showed that 82 per cent of the respondents were in favour of the sanctuary zones in the marine park, with fishers also showing support for sanctuary zones but to a slightly lesser extent at 76 per cent." (*Source Mr Matt Carr, Manager, Jervis Bay Marine Park, Evidence, 29 April 2010, p 3.*)

Resolved, on the motion of Mr Cohen: That paragraph 4.108 be amended by omitting the word "lament" and inserting instead the word "complaint".

Resolved, on the motion of Ms Robertson: That paragraph 4.109 be amended by omitting the words "local" and "with respect to the marine park that had been established in their area" and inserting instead "from other regions, and from local fishers."

Mr Cohen moved: That paragraph 4.110 be omitted, which reads:

"Mr Geoff Parker, Fisheries and Environmental Spokesman, Coffs Harbour Deep Sea Fishing Club, said that during the first zoning process for Solitary Islands he suggested that fishers would be happier if 80 per cent of the Marine Park was declared sanctuary zones if they could select the 20 per cent that they could fish:

In the zoning process we argued that 12 per cent does not sound much when 88 per cent is not locked up. I suggested that we lock up 80 per cent and let us pick the 20 per cent we want to access. That is the issue. You can juggle figures all you like, but there is only a certain amount of the area that is useable by deep sea fishermen. If they lock up 10 per cent of the marine park, that might constitute 80 per cent of the reef structure, so you are out of business." (*Source Mr Geoff Parker, Fisheries and Environmental Spokesman, Coffs Harbour Deep Sea Fishing Club, Evidence, 15 June 2010, p 58.*)

Question put.

The Committee divided:

Ayes: Mr Catanzariti, Mr Cohen, Ms Roberston, Ms Voltz

Noes: Mr Brown, Mr Colless, Mr Lynn

Question resolved in the affirmative.

Resolved, on the motion of Ms Voltz: That a new paragraph be inserted after paragraph 4.113 to read:

"It should be noted that some witnesses argued for the efficacy of sanctuary zones particularly with a spillover effect. Mr Peterlin noted his evidence 'we are now catching more lobsters at Plantation Point, which is just north of that... I used to see them there, but only in ones and twos, and now there are normal clutches of crays that you see in a hole—half a dozen.'" (*Source Mr Rod Peterlin, Evidence, 29 April 2010, p 56.*)

Resolved on the motion of Mr Cohen: That a new paragraph be inserted after paragraph 4.119 to read:

"The international requirements are covered in more detail in 4.30-4.38."

Resolved, on the motion of Ms Voltz: That paragraph 4.123 be amended by omitting the final sentence which reads:

"The Committee was interested to understand the basis for such a move particularly if it was compromising an earlier decision, supposedly based on scientific information, that the original area should be a sanctuary zone", and that paragraph 4.124 be moved to the end of paragraph 4.123.

Ms Voltz moved: That paragraphs 4.127 and 4.128 be omitted, which read:

The Committee notes the contradictory views on whether or not there is an unofficial target of approximately twenty per cent sanctuary zone coverage. It also notes the aim is to achieve an adequate and representative sample of habitat types, and that adequate of itself implies a threshold amount of area.

As noted previously, there is a belief that certain habitats, popular with recreational fishing, are over-represented – perhaps going beyond what is required for an adequate sample. The next section examines the level of representation of habitat types within sanctuary zones."

Question put.

The Committee divided:

Ayes: Mr Catanzariti, Mr Cohen, Ms Roberston, Ms Voltz

Noes: Mr Brown, Mr Colless, Mr Lynn

Question resolved in the affirmative.

Ms Voltz moved: That the heading: "Types of habitat within sanctuary zones" appearing immediately before paragraph 4.129 and paragraphs 4.129 to 4.133 be omitted, which read:

"Types of habitat within sanctuary zones

As mentioned previously there is a common belief among recreational fishers that all or the majority of prime fishing habitat locations are included in sanctuary zones. This is due to the fact that many of the popular, known habitats were included. As was discussed earlier, habitat mapping has not yet been completed for any marine park, so the exact extent and range of habitats within marine parks is still unknown.

The various marine parks are moving towards each having approximately 20 per cent of their area included within sanctuary zones. However, the percentage representation of different habitat types can vary between individual marine parks. For example in the Port Stephens Great Lakes marine park, 42 per cent of intermediate reef and 40 per cent of deep reef habitat is included within sanctuary zones. (*Source Tabled document Mr Max Haste, Port Stephens Great Lakes Marine Park, 'Recreational fishing guide – Port Stephens – Great Lakes Marine Park'*) While in the Batemans marine park the figures for these habitat types are 25 per cent and 21 per cent respectively. (*Source Tabled document X, Mr Ric Cumming, 26 May 2010*)

While the most popular reef habitats have often been included in sanctuary zones, recreational fishers have not been denied access to all reef habitat within marine parks. However, it was put to the Committee that not all reefs hold fish, (*Source Mr Parker, Evidence, 15 June 2010, p 58.*) and the Committee acknowledges that different areas of the same reef habitat would not necessarily be equally accessible.

Representatives from the various marine parks advised that as the sea-bed habitat mapping program continues their knowledge of what habitat types exist within park boundaries increases. The Committee believes this information could be usefully shared with members of the public.

The Committee therefore recommends that once the sea-bed habitat mapping for each marine park is completed, maps identifying the location of the various categories of reef habitat should be published for the information and use of marine park users."

Question put.

The Committee divided:

Ayes: Mr Catanzariti, Mr Cohen, Ms Roberston, Ms Voltz

Noes: Mr Brown, Mr Colless, Mr Lynn

Question resolved in the affirmative.

Resolved on the motion of Ms Robertson: That Recommendation 5 be amended by omitting the words "publish maps identifying the location of the various categories of reef habitat within each park for the information and use of marine park users, once the sea-bed habitat mapping for each marine park is completed" and inserting instead the words: "continue to publish information identifying the location of the various categories of reef habitat within each park for the use of the marine park users and to continue to publish information on the seabed mapping program as it progresses."

Resolved, on the motion of Ms Voltz: That the heading appearing immediately before paragraph 4.134 be amended by omitting the word: "Tweaking" and inserting instead the words: "Review of."

Ms Voltz moved: That paragraph 4.134 be amended by omitting the final sentence which reads:

"The two questions that arise are firstly, whether such modifications compromise the biodiversity conservation objectives of the sanctuary zones, and secondly, do they practically result in improved recreational fishing access."

Question put.

The Committee divided:

Ayes: Mr Catanzariti, Mr Cohen, Ms Roberston, Ms Voltz

Noes: Mr Brown, Mr Colless, Mr Lynn

Question resolved in the affirmative.

Resolved, on the motion of Ms Voltz: That paragraph 4.136 be amended by omitting the word "some" immediately before the words "marine parks" and by omitting the words "than others" immediately preceding the words "marine parks" and inserting instead "that have undertaken reviews."

Resolved, on the motion of Mr Cohen: That paragraph 4.144 be amended by omitting the words "of the greater population" after the words "of the State" and inserting instead "of NSW."

Resolved, on the motion of Ms Voltz: That paragraph 4.145 be amended by inserting the word "some" immediately before the words "local recreational fishers."

Resolved, on the motion of Ms Robertson: That paragraph 4.145 be amended by omitting the words "will be" immediately before the words "particularly acute" and inserting instead the word "is" and by omitting the words "do not have boats or vehicles and who had gone on foot to their preferred fishing sites" and inserting instead the words "land-based."

Resolved, on the motion of Ms Voltz: That paragraph 4.148 be amended by inserting a new sentence at the end of the paragraph to read: "As was previously noted marine parks such as Jervis Bay include some beach access within sanctuary zones that particularly assist access for the elderly and children."

Resolved, on the motion of Ms Voltz: That paragraphs 4.148 and 4.149 be moved to appear immediately below paragraph 4.145.

Resolved, on the motion of Ms Voltz: That paragraph 4.151 be amended by omitting the words: "While it is true that" immediately before the words "fishing spots" and inserting instead the word "Some".

Resolved, on the motion of Ms Robertson: That paragraph 4.151 be amended by inserting the word "and" immediately after the word "patronage" and omitting the word "also" immediately before the word "be".

Ms Voltz moved: That paragraph 4.152 be amended by omitting the final sentence which reads: "The establishment of a marine park has the potential to impact on local economies and businesses, particularly those that are focused or reliant upon continued and increased patronage by travelling anglers."

Question put.

The committee divided:

Ayes: Mr Catanzariti, Mr Cohen, Ms Robertson, Ms Voltz

Noes: Mr Brown, Mr Colless, Mr Lynn

Question resolved in the affirmative.

Resolved, on the motion of Mr Cohen: That paragraph 4.153 be amended by inserting a new final sentence to read: "Locals were more satisfied with the facilities of older marine parks."

Resolved, on the motion of Ms Voltz: That paragraph 4.156 be amended by inserting the words "Dr Creagh" following the words "Narooma Port Committee" and omitting the words "Dr Creagh noted that while" and inserting instead the words "However in his evidence, he said " at the beginning of the second sentence.

Resolved, on the motion of Ms Voltz: That paragraph 4.160 be amended by omitting the words "that has led to" and inserting the words "was the biggest reason for" and by inserting the words "but that sanctuary zones are still necessary" after the words 'increase in marine life'.

Resolved, on the motion of Ms Voltz: That paragraph 4.166 be amended by omitting the words "It appears" and inserting instead the words "There was evidence" at the beginning of the third sentence and by inserting a footnote at the end of the paragraph referring to evidence from Ms Stockman and Mr Tait.

Resolved, on the motion of Mr Cohen: That paragraph 4.167 be amended by omitting the word "lamented" and inserting instead the word "raised."

Resolved, on the motion of Ms Voltz: That paragraph 4.168 be amended by omitting the first sentence, which reads: "The Committee was not as cognisant of kayak angling and the issues relating to this as it was of the other various forms of recreational fishing."

Resolved, on the motion of Ms Voltz: That paragraph 4.175 be amended by omitting the word "is" and inserting instead the words "stated that it would be", and that paragraph 4.175 be moved to the end of paragraph 4.174.

Ms Voltz moved: That paragraph 4.176 be amended by omitting the words: "It is also fair to say that as a user group, scuba divers are significant beneficiaries from the establishment of marine parks. It was obvious that" and the words "and partly due to envy of that group's unrestricted access to marine parks".

Question put.

The committee divided:

Ayes: Mr Catanzariti, Mr Cohen, Ms Robertson, Ms Voltz

Noes: Mr Brown, Mr Colless, Mr Lynn

Question resolved in the affirmative.

Resolved, on the motion of Ms Voltz: That paragraph 4.177 be amended by inserting the words "Dr Kelaher" before the words "Manager, Bateman Marine Park" and by omitting the words "unintentionally encapsulated the basis for this resentment on the part of recreational fishers" and inserting instead the word "said".

Ms Voltz moved: That a new paragraph and quote be inserted following paragraph 4.177, to read:

"The Committee notes that in some Marine Parks there has been a significant effort to ensure recreational fishing is not restricted by the conflict between game fishing and scuba diving.

Mr Carr stated to the Inquiry:

The Tubes is a very popular land-based game fishing spot. You can actually catch marlin off the rocks there. It is one of the very few spots in Australia where that can occur. There is a specific reason for that to happen, from November through to May. It is also a very popular diving spot.

Those two activities conflict with one another – divers in the water and people casting game fishing gear into the water at the same spot. Those two user groups conflict with one another. The anchoring restriction that has been placed there is a seasonal. Between November and May there is no anchoring in that area so that the game fishing fraternity can have safe access to the area. For the rest of the year the anchoring restriction does not apply so that people can anchor and scuba dive in that area (*Source: Mr Matt Carr, Manager, Jervis Bay Marine Park, Evidence, 29 April 2010, p 9.*)

Ms Voltz moved: That paragraph 4.178 and the following quote be omitted, which read:

"Mr Rod Peterlin, an active diver and fisher, was involved in the consultation and development phase of the Jervis Bay Marine Park. He described the divide between these two sectors in their regard of Marine Parks:

At that time I was also an active member in the Jervis Bay Divers Club. I was sort of taking it from both sides of the fence because the divers are very pro-marine park and the fishos were really worried about how it was going to affect them." (*Source Mr Peterlin, Evidence, 29 April 2010, p 60.*)

Question put.

The committee divided:

Ayes: Mr Catanzariti, Mr Cohen, Ms Robertson, Ms Voltz

Noes: Mr Brown, Mr Colless, Mr Lynn

Question resolved in the affirmative.

Resolved, on the motion of Ms Robertson: That paragraph 4.180 be amended by inserting the words "December 2009 report Marine Park Science in New South Wales – an" before the words "Independent Review."

Resolved, on the motion of Mr Cohen: That paragraph 4.180 be amended by omitting the words "acknowledges the rationale behind this argument. It does note" and inserting instead the word "notes."

Ms Voltz moved: That a new section entitled 'Other licensing issues' be inserted following paragraph 4.182, and that paragraphs 4.179 and 4.180, as amended, be moved to the new section.

Question put.

The committee divided:

Ayes: Mr Catanzariti, Mr Cohen, Ms Robertson, Ms Voltz

Noes: Mr Brown, Mr Colless, Mr Lynn

Question resolved in the affirmative.

Mr Colless left the meeting.

Resolved, on the motion of Ms Voltz, that a new paragraph be inserted in the new section, to read:

"Other benefits of recreational fishing licences were also expressed, in particular Mr Cheers, a commercial fisherman who noted:

I believe that the public own the fish and that the commercial fishermen were put there so that the public could buy those fish. A few recreational fishers should not have a hold of the world's harvest. The everyday housewife has to go to a fish shop and pay \$50 just for a feed o fish and prawns, whereas a recreational fisher can do that every day for a whole year and take \$200 worth in one day for the price of a recreational fishing licence. I believe that members of the public are missing out." (*Source: Mr Cheers, commercial fisherman, Evidence, 4 May 2010, p 45.*)

Resolved, on the motion of Mr Cohen: That paragraph 4.182 be amended by omitting the final sentence, which reads: "The Committee does note that any move to levy an additional fee with respect to holding these competitions would be viewed as 'double-dipping' by many within the recreational fishing sector."

Resolved, on the motion of Ms Robertson: That paragraph 4.186 be amended by omitting the words "as it emerged, an apocryphal" and inserting instead the word "a".

Resolved, on the motion of Ms Voltz: That paragraph 4.190 be amended by inserting at the end of the paragraph the words:

"Mr Haste stated:

No doubt you would be aware from the submissions that compliance is one of our big issues in this area. Obviously our aim is to maximise voluntary compliance. Achieving that is sometimes difficult, but we focus on education and advice with penalty notices and/or prosecution undertaken only when an offender deliberately did the wrong thing or had the knowledge and/or opportunity to avoid committing the offence but chose not to do so. Let me give an example of that compliance. Since the introduction of the zoning plan on 21 April 2007, we have issued 799 caution notices to people for fishing in sanctuary zones and approximately 130 penalty notices for the same offence. It is roughly a ratio of eight to one. We are also authorised under the Fisheries Management Act, the National Parks and Wildlife Act, the Protection of the Environment Operations Act, and the Historic Shipwrecks Act." (*Source Mr Max Haste, Manager, Manager, Port Stephens Great Lakes Marine Park, Evidence, 4 May 2010, p 35.*)

Resolved, on the motion of Mr Cohen: That paragraph 4.200, be amended by omitting the last three sentences from the quote, which read:

"You are making out that they are doing something wrong. Fishermen seem to be a soft target to a certain degree. They are making out that they are wrong and they are slapping a \$500 fine on them. I just do not think that is fair in any shape or form."

Resolved, on the motion of Ms Voltz: That paragraph 4.201, be amended by omitting the first sentence, which reads: "The Committee was advised that the Advisory Council on Recreational Fishing (ACoRF) has raised the issue in 2009, and that moves had been taken by DECCW to clarify the issue." (*Source: Mr Toovey, Evidence, 19 April 2010, p 28.*)

Resolved, on the motion of Ms Voltz: That paragraph 4.212, be amended by omitting the word "would" and inserting instead the word "may".

Resolved, on the motion of Ms Voltz: That paragraph 4.214, be amended by omitting the words "provide the answer to the issue of" and inserting instead the word "assist."

Resolved, on the motion of Mr Lynn: That Recommendation 7 be amended by omitting the word "continue" and inserting instead the word "finalise".

Resolved, on the motion of Ms Voltz: That paragraph 4.231 be amended by omitting the final sentence, which reads: "There was a view that local marine park management was not able, or in some cases not willing, to effectively address these impacts." (*Source For example: Mr Ric Cumming, Southern Marine Park delegate, USFA, Evidence, 26 May 2010, p 20.*)

Resolved, on the motion of Ms Voltz: That paragraph 4.234 be omitted, which reads:

"It was implied to the Committee that sewage management plans were developed for some marine parks prior to their establishment. In response to a question on this matter the Committee was advised that the management of stormwater and sewerage adjacent to marine parks is done by local councils, and that the Marine Parks Authority works with local councils on water quality matters." (*Source Answers to questions taken on notice, DECCW, 8 October 2010, p 3.*)

Ms Robertson moved: That Recommendation 9 be omitted, which reads "That the Marine Parks Authority identify any land-based discharges into marine park areas the management of which is the responsibility of local government and prioritise them in terms of need for remedial action, and that funding be provided by the Department of Environment Climate Change and Water to assist local councils in remediating these discharges", and inserting instead a new recommendation to read:

"That the NSW Government continue to identify any land-based discharges into marine park areas the management of which is the responsibility of local government and prioritise them in terms of need for remedial action, and continue to provide funding to assist local councils in remediating these discharges."

Resolved, on the motion of Mr Cohen: That the motion of Ms Robertson be amended by omitting the words "NSW Government continue to identify any land-based discharges into marine park areas the management of which is the responsibility of local government" and inserting instead the words "Marine Park Authority, with the assistance of the NSW Environmental Protection Agency, identify land based licensed and unlicensed point source and non-point source discharges and pollution into marine protected areas."

Question, as amended put and passed.

Mr Cohen moved: That the quote immediately following paragraph 4.238 be amended by omitting the words:

"What happens is that the commercial guys go down there and they dig it out, they dig it out by hand. They dig a channel and bang out the lot goes—twice a year usually after heavy rains.

Now the marine parks have come in and said not over their dying bodies will anyone ever be allowed to open that lake again. If you go down there now at the moment there is a huge problem. The council has been down there trying to come up with an answer to it because the water is getting back into the sewer and they are starting to get infestations in the lake. So I might sound negative but that to me is wrong. The

marine park should be managing that lake, not sticking their heads in the sand and saying "Its ours, keep your hands off. No-one can do this." That is wrong" (*Source Mr Maxwell Frost, Evidence, 5 May 2010, p 68.*)

Ms Robertson moved: That the motion of Mr Cohen be amended by not omitting the words:

"What happens is that the commercial guys go down there and they dig it out, they dig it out by hand. They dig a channel and bang out the lot goes—twice a year usually after heavy rains.

Now the marine parks have come in and said not over their dying bodies will anyone ever be allowed to open that lake again."

Question put.

The committee divided:

Ayes: Mr Brown, Mr Catanzariti, Mr Lynn, Ms Robertson, Ms Voltz,

Noes: Mr Cohen

Question resolved in the affirmative.

Original question, as amended, put and passed.

Resolved, on the motion of Ms Voltz: That paragraph 4.243 be amended by omitting the words "frequently publicly promoted message that they are necessary" immediately before the words "requirement for the protection of fish stocks."

Ms Voltz moved: That paragraphs 4.248 and 4.249 be omitted, which read:

"The National Parks Association of NSW publication *The Torn Blue Fringe* proposes that 20 per cent of State waters need to be included in sanctuary zones in order to effectively protection fish stocks. In his response to the *Torn Blue Fringe* prepared on behalf of ACoRF, Professor Kearney dismissed the possibility that closing 20 per cent of coastal waters could by itself achieve this protection:

The great majority of the fish species exploited in NSW are highly migratory, or at least highly mobile. For those that are migratory virtually 100% of the population could be harvested outside the 20% of the area of the distribution of the species that might be closed in an MPA. Therefore the closure of 20% might offer no protection at all. For mobile species that are not migratory, a 20% area closure might prevent the capture of some of the species, but it may not be enough to represent adequate conservation of the species.

A separate critical factor to note here is, that even in the unlikely event that closing 20% of the distribution of one species did represent conservation of sufficient spawning biomass to ensure sustainability of the population at optimum levels, the area that would need to be closed would most likely not be the same for any two species. Approximately 90 species are listed in the summary of key species in the Status of Fisheries Resources in NSW. It is impossible that closing the same 20% of NSW waters to all fishing would represent efficient and effective management for all of the species. (*Source Kearney R, Response to ACoRF on the Torn Blue Fringe: Marine conservation in NSW, March 2009, p 37.*)

In evidence Professor Kearney argued that there is not a single fishery for which the current marine parks represent the appropriate management response. He said that while some benefits to some fisheries could potentially occur, marine parks would not represent a cost-effective or appropriate means by which to achieve them. (*Source Professor Kearney, Evidence, 27 April 2010, p 14.*)

Question put.

The committee divided:

Ayes: Mr Catanzariti, Mr Cohen, Ms Robertson, Ms Voltz

Noes: Mr Brown, Mr Lynn

Question resolved in the affirmative.

Resolved, on the motion of Ms Voltz: That paragraph 4.251 be amended by inserting the words "and a former NSW Department of Fisheries employee" immediately after the words "Narooma Sporting and Services Fishing Club."

Ms Voltz moved: That paragraph 4.252 be omitted, which reads:

"Mr Max Frost was another stakeholder who believed that the marine scientific capacity within the Department of Primary Industries was not being properly utilised with respect to the management of marine parks." (*Source Mr Frost, Evidence, 5 May 2010, p 68.*)

Question put.

The committee divided:

Ayes: Mr Catanzariti, Mr Cohen, Ms Robertson, Ms Voltz

Noes: Mr Brown, Mr Lynn

Question resolved in the affirmative.

Resolved, on the motion of Ms Voltz: That paragraph 4.254 be amended by omitting the first sentence which reads: "It is beyond doubt that the creation of sanctuary zones by themselves cannot provide an adequate means to protect the sustainability of fish stocks" and by omitting the words: "It also cannot be ignored that" immediately before the words "that the ability of these fish" and by omitting the word "primarily" immediately before the word "dependent" and inserting instead the word "also".

Ms Voltz moved: That paragraph 4.259 be amended by omitting the words "continuing utility in having marine park matters fall to the responsibility of two Ministers, particularly now that the Government has stated that it has no plans to establish new marine parks, but will focus on managing existing parks" immediately after the words: "The Committee does not see any" and inserting instead "reason to change the current arrangement for the responsibility of two Ministers at this time as it addresses the concerns of all stakeholders."

Question put.

The committee divided:

Ayes: Mr Catanzariti, Mr Cohen, Ms Robertson, Ms Voltz

Noes: Mr Brown, Mr Lynn

Question resolved in the affirmative.

Ms Voltz moved: That paragraph 4.260 be omitted, which reads:

"Restrictions on fishing remain the main management activity undertaken within marine parks. Now that they have been established with a broad brush, it is time for an increased focus on monitoring, evaluating and modifying marine park boundaries and zoning arrangements, including detailed scientific research into the biodiversity changes within marine parks and zones. The Committee believes that Fisheries and Compliance within the Department of Primary Industries is best equipped in terms of expertise to manage this aspect of marine parks, and hence ministerial responsibility for managing marine parks should be vested in the Minister for Primary Industries."

Question put.

The committee divided:

Ayes: Mr Catanzariti, Mr Cohen, Ms Robertson, Ms Voltz

Noes: Mr Brown, Mr Lynn

Question resolved in the affirmative.

Ms Robertson moved: That Recommendation 10 be omitted, which reads: "The NSW Government vest the responsibility for the management of marine parks with the Minister for Primary Industries" and a new Recommendation be inserted instead reading:

"That as the primary objective of NSW marine parks is conserve the biological diversity and maintain the ecological processes responsibility for the operational management of marine parks should continue to be appropriately led by the Department of Environment, Climate Change and Water. Responsibility for the declaration of and management of marine parks should be vested jointly with the Minister for Environment, Climate Change and Water and the Minister for Primary Industries."

Question put.

The committee divided:

Ayes: Mr Catanzariti, Mr Cohen, Ms Robertson, Ms Voltz

Noes: Mr Brown, Mr Lynn

Question resolved in the affirmative.

Mr Cohen moved: That a new recommendation be inserted immediately after Recommendation 10, as amended, to read:

"That the NSW Government maintain the concurrence role for the Minister for Primary Industries in the Marine Park Act and remove any concurrence requirements that do not directly relate to fisheries management issues or legislative mandates."

Question put.

The committee divided:

Ayes: Mr Catanzariti, Mr Cohen, Ms Robertson, Ms Voltz

Noes: Mr Brown, Mr Lynn

Question resolved in the affirmative.

Resolved, on the motion of Ms Robertson: That paragraph 4.267 be amended by inserting the words "presented at the Australian Society for Fish Biology 2007 Workshop, Canberra" after the words "In his 2007 paper".

Ms Voltz moved: That paragraph 4.268 be omitted, which reads:

"To counter the argument that overseas examples cannot be used to substantiate the claim for similar benefits in Australia or New South Wales, some inquiry participants pointed to more localised examples. The Leigh aquatic reserve in New Zealand was one example that was cited often."

Question put.

The committee divided:

Ayes: Mr Catanzariti, Mr Cohen, Ms Robertson, Ms Voltz

Noes: Mr Brown, Mr Lynn

Question resolved in the affirmative.

Ms Voltz moved: That paragraph 4.271 be amended by omitting the first sentence, which reads: "Many international calls for the establishment of significant areas of marine protected areas/sanctuary zones are made in response to the effects of the over-exploitation of fish stocks."

Question put.

The committee divided:

Ayes: Mr Catanzariti, Mr Cohen, Ms Robertson, Ms Voltz

Noes: Mr Brown, Mr Lynn

Question resolved in the affirmative.

Resolved, on the motion of Ms Voltz: That paragraph 4.273 be amended by omitting the first sentence, which reads: "The Committee agrees that ultimately marine parks in NSW will need to be judged on the scientific basis that was used to identify to select and identify park boundaries, and on scientific evidence that they are achieving the purposes for which they were created" and inserting instead the words: "The Committee notes that marine parks in NSW will need scientific evidence to select and identify boundaries" and by inserting the word "can" immediately before the word "serve" and by omitting the word "only" immediately before the word "to."

Resolved, on the motion of Ms Voltz: That paragraph 4.275 be omitted, which reads:

"The Committee wished to ascertain what was meant by biomass. It sought information from DECCW on when scientific studies from Australia and overseas report an increase in biomass for an area that has been declared a sanctuary zone, whether biomass refers to all or the majority of marine species within the zone or to a standard set of species or to specific species depending on the research and report"

Resolved, on the motion of Ms Voltz: That paragraph 4.276 be amended inserting the words "sought further information on the definition of biomass, and" immediately before the words "was advised", and by inserting the words "by DECCW that" immediately before the words "it is for the species".

Resolved, on the motion of Ms Voltz: That paragraphs 2.279 and 2.280 be omitted, which read:

"While the article noted an important benefit of the rezoning was the reduction in outbreaks of crown-of-thorns starfish, the actual cause of this was not captured within the scope of the research:

Although the effect on starfish outbreaks is clear, the ecological mechanism causing this pattern remains uncertain. The major target species affected by the zoning on the central GBR are not considered to be direct predators on crown-of-thorns starfish. (*Source McCook et al, Adaptive management of the Great Barrier Reef: A globally significant demonstration of the benefits of networks of marine reserves, 2010, p 4.*)

The Committee was keen to determine whether it was likely that sanctuary zones within NSW marine parks might benefit from a decrease in barren reef areas due to over-grazing by sea urchins. The Committee was advised that while research from other jurisdictions indicates that large snapper and rock lobsters are key regulators of sea urchin populations, there is limited information of the trophic structure of rocky reef communities in NSW, and further research is needed to determine which predators eat sea urchins on rocky reefs throughout NSW." (*Source Answers to questions taken on notice, DECCW, 8 October 2010, p 10.*)

Resolved, on the motion of Ms Voltz: That paragraphs 4.281, 4.282 and 4.283 be inserted after paragraph 4.274.

Resolved, on the motion of Ms Voltz: That paragraph 4.284 be amended by omitting the words: "It is an unfortunate fact that baseline data on biodiversity within marine parks and sanctuary zones was not collected prior to the implementation of zoning, such as was the case for studies on the Lake Macquarie and Tuross Lake recreational fishing havens. A primary recommendation of the Independent Review was that the new strategic research plan should" and inserting instead "the Committee notes the need to ensure research mandates goals" and by omitting the words "and each" and inserting instead the word "of".

Resolved, on the motion of Mr Cohen: That paragraph 4.294 be amended by omitting the words: "However while" before the words "the benefit" and by omitting the words "there is no guarantee, and some would argue likelihood, that this will occur within the marine parks in NSW to any great extent" after the words "recreational fishing sector."

Ms Voltz moved: That paragraph 4.295 be amended by omitting the second sentence which reads: "The Committee sought to ascertain on what that organisation based its support for the notion of spillover", by omitting the word "subsequently" after the word "NPA", by omitting the words "and suggested a quick perusal of this list led to the expectation that spillover would generally occur following the creation of sanctuary zones, and by omitting the second paragraph of the quote immediately following paragraph 4.295, which reads:

"Also attached is a table of fourteen references extracted from the abovementioned list that specifically include 'spillover' in the title of the scientific papers."

Question put.

The committee divided:

Ayes: Mr Catanzariti, Mr Cohen, Ms Robertson, Ms Voltz

Noes: Mr Brown, Mr Lynn

Question resolved in the affirmative.

Resolved, on the motion of Ms Voltz: That footnote 417 be amended by inserting the words "Proceedings of the National Academy of Sciences of the United States of America, 107 (43). 18278- 18285" after the words "2010".

Resolved, on the motion of Ms Voltz: That paragraph 4.298 be amended by omitting the third sentence, which reads: "It must be noted that the report focused on coral trout which are sedentary, rarely moving between individual coral reefs, and thus produce larvae within the studied no-take reefs."

Resolved, on the motion of Ms Voltz: That paragraph 4.301 be amended by omitting the first sentence, which reads: "At this stage it cannot be said that NSW fishers who have been denied access to their traditional fishing grounds through the implementation of sanctuary zones will benefit from a spillover effect, either locally or on a fisheries wide basis" and by omitting the word "to" after the words "Marine Park Authority" and inserting instead the words "that they."

Resolved, on the motion of Ms Voltz: That the heading immediately before paragraph 4.302 be amended by omitting the word "Reduced."

Resolved, on the motion of Ms Robertson: That paragraph 4.304 be amended by omitting the words "told the Committee" and inserting instead the words "claims."

Resolved, on the motion of Ms Voltz: That paragraph 4.305 be omitted, which reads:

"It would appear that population has not yet had time to assimilate to the change in its historical extraction, and that the environment itself cannot support the population that was required when it was subject to regular extraction of its numbers".

Resolved, on the motion of Ms Robertson: That a new paragraph be inserted immediately after the quote in paragraph 4.304, to read:

"The Committee has not received sufficient evidence to support Mr Cheers' contention."

Mr Colless rejoined the meeting.

Resolved, on the motion of Ms Voltz: That paragraph 4.312 be amended by omitting the words "as discussed earlier in this chapter" after the words "why certain habitats were being protected, and".

Resolved, on the motion of Ms Voltz: That paragraph 4.313 be amended by inserting the words "stated that they" after the words "many stakeholders" and by inserting the words inserting the words "also stated that they" after the words "recreational fishers."

Mr Cohen moved: That paragraph 4.319 be amended by omitting the final sentence, which reads:

"Mr Thurlow argued that with respect to the Cape Byron Marine Park, the identification of sanctuary zones was very much a 'cart before the horse exercise', and that the only scientific research (an assessment/identification of habitat types) provided to the community as the basis for the need for sanctuary zones was of limited scientific value." (*Source Mr Thurlow, Evidence, 15 June 2010, p 68.*)

Question put.

The committee divided:

Ayes: Mr Catanzariti, Mr Cohen, Ms Robertson, Ms Voltz

Noes: Mr Brown, Mr Colless, Mr Lynn

Question resolved in the affirmative.

Resolved, on the motion of Ms Voltz: That paragraph 4.320 be omitted, which reads:

"As discussed earlier in this Chapter it was put to the Committee that in establishing marine parks, local fishers were asked to nominate productive fishing spots and these were then invariably selected as sites for sanctuary zones. Mr Hamish Malcolm, Research Officer, Solitary Islands Marine Park, advised reef fish are a highly visible component of marine biodiversity, and that a number of studies have found that reef fish to be useful and reliable surrogates for biodiversity and that their presence can be useful in developing habitat classifications." (*Source Mr Malcolm, Evidence, 15 June 2010, p 50.*)

Resolved, on the motion of Ms Voltz: That paragraph 4.321 be amended by omitting the words "sections of the general public" after the words "not well understood by" and inserting instead the words "some recreational fishers."

Mr Cohen moved: That paragraph 4.323 be omitted, which reads:

"The Chief Executive Officer of RecFish Australia voiced the view of many recreational fishers in that they need to see the evidence of positive results if they are to agree there is a scientific basis for the establishment of sanctuary zones:

I will not argue with that and I definitely agree with that but we need that ongoing assessment and monitoring to say, "Yes, the stocks have improved" and that you can point that back to the closure or the sanctuary zone. Now a lot of the research at the moment indicates that it takes some time for that to happen. There is a recent paper about reserves on the Great Barrier Reef that have been closed for 10 years and only now we are starting to see some of that effect." (*Source Mr Olyott, Evidence, 19 April 2010, p 43.*)

Question put.

The committee divided:

Ayes: Mr Catanzariti, Mr Cohen, Ms Robertson, Ms Voltz

Noes: Mr Brown, Mr Colless, Mr Lynn

Question resolved in the affirmative.

Resolved, on the motion of Ms Voltz: That paragraph 4.327 be omitted, which reads:

"The Committee again notes that it was unfortunate that baseline data was not collected prior to the implementation of zoning plans. As is discussed in Chapter 6 baseline data was collected on Lake Macquarie and Tuross Lake prior to their establishment as recreational fishing havens. Follow-up studies then measured a general increase in the size of harvested species."

Resolved, on the motion of Mr Cohen: That paragraph 4.330 be amended by omitting the words: "There is no doubt that" before the words "the time required."

Resolved, on the motion of Ms Robertson: That paragraph 4.334 be omitted, which reads:

"It must be noted that any indicative results within marine parks are likely to be due primarily to the broader removal of commercial effort than to the more localised restrictions on recreational fishing."

Mr Cohen moved: That paragraph 4.338 be omitted, which reads:

"Professor Kearney also asserted that an increase in some fish numbers cannot be interpreted as a benefit to biodiversity. He also argued that any potential benefit must be considered in terms of its potential cost:

While it is possible a species may have benefited [from the existing Marine Parks] the Marine Park Authority has so far been unable to demonstrate any benefits for any species from NSW marine parks. More importantly it must be remembered that the stated purpose of the parks is the conservation of biodiversity and not just an increase in relative abundance of one or two species that could be misinterpreted by some to be a benefit to biodiversity or even to a species.

One key issue with the question above is the need to properly define what qualifies as a 'benefit'. It is to be expected that if areas are closed to all fishing there will be some changes in those areas: it is to be expected there would be increases in abundance of some species in those areas, particularly more sedentary ones that would have been taken by fishing. But an increase in the localised abundance of a species does not automatically constitute a benefit. In fact it can represent a net loss for biodiversity (as explained by the intermediated disturbance hypothesis) and a loss for seafood production (restricting catches to below the optimum sustainable yield for no properly assessed benefit is in fact a loss) as well as a significant cost for taxpayers for the management and enforcement of the closure." (*Source Answers to questions taken on notice, Professor Kearney, 2 June 2010, p 1.*)

Question put.

The committee divided:

Ayes: Mr Catanzariti, Mr Cohen, Ms Robertson, Ms Voltz

Noes: Mr Brown, Mr Colless, Mr Lynn

Question resolved in the affirmative.

Ms Voltz moved: That paragraph 4.340 be omitted, which reads:

"In evidence Professor Kearney was critical of the fact that more documented benefits from sanctuary zones were not available from those areas that have had a long history of fishing closures. However, it must be noted that the lack of documented benefits could be a reflection of the nature and scope of the research conducted." (*Source Professor Kearney, Evidence, 3 September 2010, p 37.*)

Question put.

The committee divided:

Ayes: Mr Catanzariti, Mr Cohen, Ms Robertson, Ms Voltz

Noes: Mr Brown, Mr Colless, Mr Lynn

Question resolved in the affirmative.

Ms Voltz moved: That paragraph 4.345 be amended by omitting the words "a large portion of the NSW public is" after the words "it appears that" and inserting instead the words "many recreational fishers are", by omitting the footnote reference to Professor Peter Fairweather et al, *Marine Park Science in NSW – An Independent Review*, Marine Park Advisory Council NSW, December 2009, p 22, and by omitting the last sentence which reads "If these people are to come to accept that there is a scientific basis they will require scientific evidence of what changes have occurred."

Question put.

The Committee divided:

Ayes: Mr Catanzariti, Mr Cohen, Ms Robertson, Ms Voltz

Noes: Mr Brown, Mr Colless, Mr Lynn

Question resolved in the affirmative.

Mr Cohen moved: That the heading appearing immediately before paragraph 4.348 and paragraphs 4.348 to 4.356 be omitted, which read:

"The Torn Blue Fringe and the Marine Park 'Science Paper'

The report of the Independent Review of Marine Park Science stated the Independent Review Panel was alarmed at the indications that a large portion of the NSW public seems to have been convinced that there is no science at all behind the marine parks system in NSW. (*Source Professor Peter Fairweather et al, Marine Park Science in NSW – An Independent Review, Marine Park Advisory Council NSW, December 2009, p 22.*) This claim was reiterated in many submissions to the Inquiry.

It would appear that many members of the fishing community primarily base this claim on the public critical deconstruction by Professor Kearney of two documents: the *Torn Blue Fringe* a report commissioned by the National Parks Association of NSW, and the Marine Parks Authority of NSW document *A review of benefits of Marine Protected Areas and related zoning considerations*. (*Source For example: Mr Parker, Evidence, 15 June 2010, p 59; Mr Salter, Evidence, 30 August 2010, p 18.*)

The *Torn Blue Fringe* was published in December 2007, and as discussed earlier in this chapter called for twenty per cent of NSW waters to be incorporated into sanctuary zones. ACoRF commissioned Professor Kearney to review this report and to, among other things, assess the science and logic underpinning the claims for more marine parks in NSW. Professor Kearney's *Response to ACoRF on the Torn Blue Fringe: Marine Conservation in NSW* was published in March 2009.

The MPA document *A review of benefits of Marine Protected Areas and related zoning considerations* which was made available on the MPA website was first published in 2006 and a revised edition, in response to Professor Kearney's initial criticisms, was published in 2008. Professor Kearney has published a series of critiques of this document.

As part of his deconstruction of both documents Professor Kearney was critical of the standard of scholarship and scientific rigour, in particular the assumptions drawn from inappropriate reference to some scientific studies. (*Source See: Professor Kearney, Evidence, 3 September 2010, p 35.*)

As discussed earlier, throughout the Inquiry recreational fisher witnesses voiced their concern that the *Torn Blue Fringe* had been submitted to the Government for consideration, inferring that this equated to acceptance by the Government of the report's recommendations. It is again important to note that the document, while submitted to the Government, has never been endorsed as directly informing government policy. Similarly the Committee again notes that the formal position of the Government is that it has no plans to establish new marine parks.

With respect to the MPA document, the report of the Independent Review acknowledged that Professor Kearney was justified in his criticisms of the level of scholarship displayed. However, it noted that it was in general an advocacy document:

It seems the standard of scholarship displayed in the original document (that was undated but available on the Marine Parks Authority website prior to 2008, and then replaced by an update, see Marine Parks Authority 2008) was particularly poor, as outlined in Kearney (2007, 2008, 2009). The updated version (Marine Parks Authority 2008) rectified a number of the problems that Professor Kearney and others identified but did not change any of the conclusions, nor did it acknowledge the criticisms in any way.

Kearney (2008, 2009) went on to criticize that outcome as being unacceptable scientific behavior. While the Independent Review Panel was sympathetic, it noted the so-called 'science paper' was an educational tool aimed at the wider public of NSW. The fact that it presented only the benefits with none of the costs of Marine Protected Areas (as criticized by Kearney) is not uncommon in such advocacy documents available on government websites. Such documents are not subject to peer review in themselves and do not conform to all of the expectations of the primary scientific literature. However, they do use the scientific literature, and we concur that this should be done in a proper, correct and transparent manner. (Source Professor Peter Fairweather et al, *Marine Park Science in NSW – An Independent Review*, Marine Park Advisory Council NSW, December 2009, p 20.)

However, one of the criticisms made by Professor Kearney was that no alternative, more balanced, document was provided to the public to inform their consideration of the likely benefits and impacts arising from the establishment of marine parks.

As discussed earlier the Independent Review made a number of recommendations relating to providing better, balanced, information to the public as part of an overall communication plan for the marine park system in NSW. It is clear that it would have been beneficial if the Marine Parks Authority had published a response to the issues raised in both of Professor Kearney's papers."

Question put.

The Committee divided:

Ayes: Mr Catanzariti, Mr Cohen, Ms Robertson, Ms Voltz

Noes: Mr Brown, Mr Colless, Mr Lynn

Question resolved in the affirmative.

Ms Voltz moved: That the heading immediately before paragraph 4.357 and paragraphs 4.357 to 4.365 be omitted, which read:

"Is the marine park system too small and disconnected?"

A criticism voiced by representatives from across all stakeholder groups was the current system of five mainland marine parks was not large or connected enough to provide adequate protection to marine biodiversity and fish stocks. While this criticism was shared between stakeholder groups their proposed solution was quite different. One view was that the size of marine parks, particularly sanctuary zones, should be dramatically increased, the other view advocated State-wide management techniques as an alternative to marine parks. It appears that in both cases stakeholders were focusing more on the conservation of fish stocks than on overall marine biodiversity.

In evidence Mr James Harnwell, Editor and Publisher of *Fishing World* described the current structure of marine parks as being piecemeal:

I do not necessarily think the structure we have of what essentially are very small marine parks with little tiny areas closed off to fishing is perhaps the best way to look at protecting our environment. Maybe you need to look at the bigger picture where there is a whole range of different management techniques brought in rather than just this piecemeal thing. I can see that the Government had an obligation to bring

in some sort of marine protection. I can see that marine parks probably were a relatively convenient and easy way to get around that obligation. I do not necessarily think the structure we have now is the best option for our marine environment. (*Source Mr Harnwell, Evidence, 29 April 2010, p 11.*)

Mr Harnwell went on to suggest that this piecemeal approach had achieved little more than alienate communities up and down the coast. He suggested that for the system to be truly effective a much larger area - potentially even the entire coast would need to be 'closed off' - an eventuality he conceded would never happen. (*Source Mr Harnwell, Evidence, 29 April 2010, p 12.*)

The Committee does note that while being critical in this manner, Mr Harnwell nor other critics are advocating a significant increase in sanctuary zones along the coast. Rather they favour the alternative of state-wide management of fisheries through such means as bag and size limits.

In evidence Professor Kearney argued that addressing inappropriate fishing practices across the entire State provides a better result than the removal of localised commercial fishing practices associated with marine parks:

...because you need to do it over the whole State. Doing it in part of the area does not solve the problem. In fact, doing it in part of the area and paying disproportionately to buy out fishermen has caused the problem. These fisheries need to be managed over the whole area of the distribution. If there is a problem, you need to fix it everywhere, not just in part of the area where it is a problem. Claiming that closing part of the area is fixing it is, again, inadequate management. If it is a problem, fix it everywhere. (*Source Professor Kearney, Evidence, 3 September 2010, p 41.*)

Mr Mark Fleming was also critical of the current system which he considers does not provide the required connectivity between marine parks. Mr Fleming suggested to the Committee that consideration could be given to proclaiming all of the State waters a single marine park and that all waters could then be zoned appropriately:

I am not convinced that we are there yet, in terms of State waters, for a system of parks that actually stands up to any scientific scrutiny, particularly in terms of connectivity between sanctuary zones. By going down the path of one large park you could also have one advisory committee. I think that advisory committee would be much more efficient than the five, six or seven—I am not sure how many—that we have now. I think the whole thing would be much more streamlined under one Minister—one park and one management structure—and keep the regional people in place because that is good for the economy, keep that structure within that, but think about that option. (*Source Mr Fleming, Evidence, 26 May 2010, p 12.*)

Mr Birt argued that it would stand to reason that if a large enough area was created as a sanctuary zone, such as the recent zones established in both the Hawaiian Islands and in the Chagos Islands in the Indian Ocean, a degree of effective protection would also be afforded to pelagic species of fish. (*Source Mr Birt, Evidence, 30 August 2010, p 2.*)

Given that all fishing activity within State waters is managed, the Committee put the concept of a single state-wide marine park to DECCW. The Department advised that a marine park covering all NSW waters is not required to achieve the primary aim of conservation of biodiversity and maintenance of ecological processes. The Department also commented that managing fishing activity is not the primary objective of marine parks. (*Source Answers to questions taken on notice, DECCW, 8 October 2010, p 6.*)

However, as is discussed in the next section one of the primary criticisms of the marine parks system levied by members of the recreational fishing sector is that marine parks do focus on the management (restriction) of fishing, to the exclusion of other potential impacts such as terrestrial inflows."

Question put.

The Committee divided:

Ayes: Mr Catanzariti, Mr Cohen, Ms Robertson, Ms Voltz

Noes: Mr Brown, Mr Colless, Mr Lynn

Question resolved in the affirmative.

Mr Cohen moved: That the heading immediately before paragraph 4.366 and paragraphs 4.366 to 4.370 be omitted, which read:

"Restrictions on fishing does not by itself ensure a marine are is protected

Critics of the marine park system in NSW argue that inappropriate focus is placed on restricting fishing while other threats to marine biodiversity are ignored. They take umbrage at the claim by the Government that they are marine protected areas, when they believe they are nothing more than localised fishing closures. (*Source See: Professor Kearney, Evidence, 27 April 2010, p 19.*)

The CEO of ECOfishers argued that the money spent on creating and administering marine parks would be better spent elsewhere – specifically on addressing river pollution issues:

We have had \$33 million splashed around—in fact, it is probably a lot more—on marine parks, but we are not addressing the real problems. We have these Mickey Mouse marine parks with pink, yellow and blue zones, but we have dead fish every time there is a flood, and 32 tonnes of it from one bay on the Richmond River. We are kidding ourselves; we are not addressing the real issue. (*Source Mr Thurlow, Evidence, 15 June 2010, p 76.*)

The previous Chapter examined the significant relative threat posed by land-based impacts across the State, and the role and efficacy of individual marine parks in addressing local land-based impacts was examined earlier in this Chapter. While the Committee acknowledges the point made by Mr Thurlow, it must note that that it is not necessarily the case that the funds expended on administration of marine parks have been diverted from current activities addressing land-based impacts.

There was also the view that the level of threat to biodiversity posed by fishing should first be identified and then, in accordance with national obligations, and indeed, historically proven fisheries management, fishing closures could be implemented provided they are cost-effective and proportionate to the identified threat.

Professor Kearney holds the view that the marine park science to date has focused on identifying biodiversity rather than using science to determine what, if anything, is threatening that biodiversity. In particular he said the reason why fishing needs to be excluded has not been identified, and further noted that even those areas closed to fishing are not fully protected from the impact of fishing given that some migratory species of fish, while protected within a sanctuary zone, can be overfished when outside those areas:

That does not mean that the areas that are being called protected are truly protected because the only additional thing that the parks are doing is closing them to fishing. The reason why fishing needs to be excluded has not been identified and the area is not protected against fishing." (*Source Professor Kearney, Evidence, 27 April 2010, p 20.*)

Question put.

The Committee divided:

Ayes: Mr Catanzariti, Mr Cohen, Ms Robertson, Ms Voltz

Noes: Mr Brown, Mr Colless, Mr Lynn

Question resolved in the affirmative.

Ms Voltz moved: That paragraphs 4.371 and 4.372 be omitted, which read:

"The identification of the threat posed by recreational fishing to the biodiversity and ecological processes within sanctuary zones is part of the on-going research program. The Marine Parks Authority has chosen to implement sanctuary zones and then, through comparative studies, identify the level of impact of recreational fishing.

It is a matter of policy whether to identify the threat first and then implement fishing closures or vice versa. However, in order to identify the level of threat it is necessary to have a comparative study."

Question put.

The Committee divided:

Ayes: Mr Catanzariti, Mr Cohen, Ms Robertson, Ms Voltz

Noes: Mr Brown, Mr Colless, Mr Lynn

Question resolved in the affirmative.

Mr Cohen moved: That paragraph 4.373 be omitted, which reads:

"Recreational fishers feel that they have been persecuted because they are the only park user group that has been restricted in its activities. In his submission Professor Kearney argued that with respect to the Batemans Marine Park, even relatively small-scale direct threats appear not to be addressed by marine park management:

The management measures implemented are nothing more than restraints on fishing. None of the key threats identified for estuaries are addressed in any way. Almost all of the other listed causes of 'direct damage', 'introduced marine pests, swing mooring chains, propellers, retrieval of anchors' are totally ignored, except for retrieval of anchors, which is specifically mentioned in the zoning plan as being permitted in all zones, including sanctuaries, except over seagrass beds in sanctuaries. Thus there is extremely little action against anything, even if it has been identified as a threat, except fishing of any sort."
(*Source Submission 88 (attachment), Kearney, R, December 2007, p 14.*)

Question put.

The Committee divided:

Ayes: Mr Catanzariti, Mr Cohen, Ms Robertson, Ms Voltz

Noes: Mr Brown, Mr Colless, Mr Lynn

Question resolved in the affirmative.

Resolved, on the motion of Mr Cohen: That paragraph 4.374 be amended by omitting the words "a palpable sense of" immediately before the words "resentment towards scuba divers."

Resolved, on the motion of Ms Voltz: That paragraph 4.378 be amended by omitting the words: "It is fair to say that the" before the words "recreational fishing".

Resolved, on the motion of Ms Robertson: That paragraph 4.378 be amended by omitting the words "sector is" and inserting instead the words "organisations are".

Resolved, on the motion of Mr Cohen: That paragraph 4.384 be amended by omitting the words "possibly ineffective and unwarranted" immediately before the words "constraint on fishing."

Resolved, on the motion of Ms Robertson: That paragraph 4.384 be amended by omitting the words "extended to all similar zones in marine parks" and inserting instead the words "considered during the zoning plan reviews in all marine parks."

Resolved, on the motion of Ms Robertson: That Recommendation 11 be amended by omitting the word "all" immediately before the words "implemented within" and inserting instead the word "suitable."

Mr Cohen moved: That paragraph 4.385 be omitted, which reads:

"As examined earlier many recreational fishers struggle with understanding the concept of what is being protected within a sanctuary zone and the fact that the fish species they target are migratory and thus provided little effective protection by these zones. This in turn has led to the call for the right to fish for these migratory species within sanctuary zones."

Question put.

The Committee divided:

Ayes: Mr Catanzariti, Mr Cohen, Ms Robertson, Ms Voltz

Noes: Mr Brown, Mr Colless, Mr Lynn

Question resolved in the affirmative.

Resolved, on the motion of Ms Voltz: That paragraph 4.396 be amended by omitting the first sentence which reads: "On being informed that fish represent only two per cent of biodiversity it would be fair to expect that many recreational fishers would then ask why is fishing precluded from sanctuary zones" and that the second sentence and quote be moved to the end of paragraph 4.395.

Mr Cohen moved: That paragraph 4.399 be omitted, which reads:

"A large portion of the general public remains unsure as to what exactly is encompassed within the biodiversity and habitat that is sought to be protected within sanctuary zones. This is not surprising as the Marine Parks Authority is still determining that itself through ground-truthing the key assumptions in using habitat as a surrogate for biodiversity."

Question put.

The Committee divided:

Ayes: Mr Catanzariti, Mr Cohen, Ms Robertson, Ms Voltz

Noes: Mr Brown, Mr Colless, Mr Lynn

Question resolved in the affirmative.

Mr Cohen moved: That paragraph 4.400 be amended by omitting the second sentence, which reads: "The only way to determine this would be to undertake comparative studies of sanctuary zones, where one set of sanctuary zones allow no fishing and the other set allow for restricted recreational fishing that targets migratory fish only."

Question put.

The Committee divided:

Ayes: Mr Catanzariti, Mr Cohen, Ms Robertson, Ms Voltz

Noes: Mr Brown, Mr Colless, Mr Lynn

Question resolved in the affirmative.

Ms Voltz moved: That paragraph 4.401 be omitted, which reads:

"The Committee notes that New South Wales has a relatively high percentage of areas currently protected within sanctuary zones compared to other local jurisdictions. It also further notes it has been consistently advised that there is no percentage requirement or target for the amount of habitat type, other than needing to be a representative sample."

Question put.

The Committee divided:

Ayes: Mr Catanzariti, Mr Cohen, Ms Robertson, Ms Voltz

Noes: Mr Brown, Mr Colless, Mr Lynn

Question resolved in the affirmative.

Mr Cohen moved: That paragraph 4.402 be omitted, which reads:

"Recreational fishers are strongly of the view that allowing some fishing practices would have no or a negligible effect on biodiversity, marine habitats or ecological processes within sanctuary zones. The Committee believes that this belief should be tested as a sign of good faith, considering the studies in two recreational fishing havens support the recreational fishers' views."

Question put.

The Committee divided:

Ayes: Mr Catanzariti, Mr Cohen, Ms Robertson, Ms Voltz

Noes: Mr Brown, Mr Colless, Mr Lynn

Question resolved in the affirmative.

Resolved, on the motion of Ms Robertson: That paragraph 4.403 be amended by omitting the word "sanctuary" immediately before the word "zone" and inserting instead the word "fishable".

Resolved, on the motion of Ms Robertson: That Recommendation 12 be amended by omitting the word "sanctuary" immediately before the word "zone" and inserting instead the word "fishable" and by inserting the words "in consultation with local fishers" immediately after the words "fully restricted sanctuary zone."

Resolved, on the motion of Mr Cohen: That paragraph 4.408 be amended by inserting the words "by the independent review panel" immediately after the words "eleven were identified."

Resolved, on the motion of Ms Voltz: That paragraph 4.414 be amended by omitting the words "or increase in any sanctuary zone" immediately before the words "until the next five-year research plan has been completed".

Resolved on the motion of Ms Voltz: That Recommendation 14 be amended by omitting the words "or implement any increase in sanctuary zones, or other zone changes that result in a constraint of fishing within existing marine parks" immediately after the words "any new marine parks."

Resolved, on the motion of Ms Voltz: That Chapter 4, as amended, be adopted.

Mr Lynn left the meeting.

Chapter 5 read.

Resolved, on the motion of Mr Cohen: That the first introductory paragraph of Chapter 5 be amended by omitting the words "sector was" immediately after the words "recreational fishing" and inserting instead the words "organisations were" and by omitting the word "diplomatic" and inserting instead the word "problematic".

Resolved, on the motion of Ms Robertson: That the Table in paragraph 5.3 be moved to an appendix of the report.

Resolved, on the motion of Ms Voltz: That paragraph 5.5 be amended by omitting the last dot-point, which reads: "Reciprocal arrangements are not in place for fishers to be represented on other councils and committees (for example a representative from the Nature Conservation Council is a member of ACoRF and is therefore fully aware of all the issues and considerations being discussed relating to recreational fishing. A reciprocal arrangement does not exist for recreational fishers to be represented on conservation committees." (*Source Submission 943, Recreational Fishing Alliance of NSW, pp 4-6.*)

Resolved, on the motion of Ms Voltz: That paragraph 5.6 be amended by omitting the word "sector" immediately after the words "recreational fishing" and inserting instead the word "organisations."

Resolved, on the motion of Ms Robertson: That a new paragraph be inserted after paragraph 5.20 to read: "There was evidence that information about ACoRF processes is not available to the wider fishing community."

Resolved, on the motion of Ms Voltz: That paragraph 5.38 be omitted, which reads: "However, as is examined in later chapters, representatives of the recreational fishing sector also strongly argued that there was a need to increase the number of compliance officers across the state. Similarly, there was a call from inland recreational fishers for additional access officer positions."

Resolved, on the motion of Ms Robertson: That paragraph 5.39 be amended by omitting the words "is concerned" immediately after the words "The Committee" and inserting instead the words "notes the belief."

Resolved, on the motion of Ms Voltz: That paragraph 5.40 be omitted, which reads: "In Chapter 3 the Committee recommended that the portion of Trust fund monies allocated to aquatic habitat protection and rehabilitation be increased. If this increased allocation requires a reduced allocation to another funding platform, then it should come from the enforcement of fishing rules platform, with a reduction in the number of fisheries officers funded by the Trusts."

Resolved, on the motion of Mr Cohen: That Recommendation 16 be omitted, which reads: "That Industry & Investment NSW assume funding responsibility from within its departmental budget, for three current coastal fisheries officers in order to release recreational trust fund monies for other purposes including aquatic habitat protection and rehabilitation" and a new Recommendation be inserted instead which reads:

"That the NSW Government investigate the sufficiency of expenditure on recreational fishing compliance officers and that both Industry & Investment NSW and the fishing trusts establish a shared funding arrangement for funding compliance with regulatory controls."

Mr Cohen moved: That paragraph 5.67 be amended by omitting the second and third paragraphs, which read:

"However, it does note that there would and should not be any reason why an individual could not sit on both ACoRF and a new independent body. Although a single advocacy and advisory body may be difficult, the Government has shown it is possible with the establishment of the Game Council in 2002."

Question put.

The Committee divided:

Ayes: Mr Catanzariti, Mr Cohen, Ms Robertson, Ms Voltz

Noes: Mr Brown, Mr Colless

Question resolved in the affirmative.

Resolved on the motion of Ms Voltz: That paragraph 5.72 be omitted, which reads:

"While this might generally be the case, the Committee welcomed and was impressed by the input and evidence it received by individual fishers who did not belong to either a club or organisation."

Ms Voltz moved: That paragraph 5.74 be amended by omitting the second and third sentences, which read:

"It should be up to the recreational fishing community to select their representatives on the basis of their assessment of each applicant's skills and experience. It would appear that the majority of applicants are likely to be individuals who have already chosen to commit themselves to championing the cause of recreational fishing."

Question put.

The Committee divided:

Ayes: Mr Catanzariti, Mr Cohen, Ms Robertson, Ms Voltz

Noes: Mr Brown, Mr Colless

Question resolved in the affirmative.

Resolved, on the motion of Ms Voltz: That paragraph 5.77 be amended by omitting the first sentence, which reads:

"The Committee applauds those who are willing to embrace the views of other sectors while seeking to achieve what is ultimately a common goal."

Resolved, on the motion of Ms Robertson: That Recommendation 17 be omitted, which reads: "That Industry & Investment NSW in consultation with recreational fishing organisations develop a proposed structure for an independent body capable of effectively representing, advocating and taking action on behalf of the interests of the recreational fishing community of NSW", and a new recommendation be inserted instead which reads:

"That Industry & Investment NSW in consultation with recreational fishing organisations, indigenous fishing representatives and other relevant bodies review the current structure of the Advisory Council on Recreational Fishing."

Resolved, on the motion of Ms Robertson: That a new recommendation be inserted immediately following Recommendation 17 to read:

"That ACoRF develop a communication strategy so that current information can be made available in a timely manner to the wider fishing community."

Resolved, on the motion of Ms Voltz: That the heading immediately before paragraph 5.86 and 5.86 to 5.101 and Recommendation 18 be omitted, which read:

"An alternative representational and management structure

The overwhelming call from among recreational fishers was for an independent representative body that could provide a single voice and advocate on behalf of the recreational fishing sector.

There were also calls, primarily from the major recreational fishing organisations, for an alternative governance model to the current ACoRF/Trusts structure. While these also envisaged an independent peak body, the role of the body went beyond advocacy to include management functions.

The joint submission from the Australian Fishing Trade Association (AFTA) and Boating Industry Association of NSW (BIA), states that around Australia, recreational fishing representative bodies were assuming responsibility for the delivery of services to their sector:

In Western Australia RecfishWest has successfully undertaken a number of stand-alone projects and has taken on several tasks previously performed by government including regional consultation and education programs. In Victoria, the Future Fish Foundation and VRFish have similarly provided service delivery functions. The attraction is cost effective service delivery through reduced overheads and efficient operations. (*Source Submission 891, Australian Fishing Trade Association and Boating Industry Association of NSW, p 42.*)

AFTA and BIA recommended a dedicated Recreational Fishing Peak Body be established, funded from the Recreational Fishing Trusts for adequate operating costs for its first five years. The body would be constituted to deliver services and functions currently provided by government and others (excluding compliance and enforcement) to be phased in as capacity is demonstrated, leading to the body becoming financially autonomous.

AFTA and BIA argued this new governance entity must be capable of owning and trading fishing rights, real property and water rights to improve recreational fishing. It must also be able to act as trustee for Crown Lands. (*Source Submission 891, p 43.*)

The submission from the Recreational Fishing Alliance of NSW also put forward a substantially similar proposal for an alternative structure for recreational fishing representation – an independent statutory body with the title 'Recreational Fishing NSW'. Features of this new body would include:

- a mixture of angler representatives appointed by the executive of Recreational Fishing NSW and elected by fishers
- invited representatives of relevant departments such as I & I NSW, Marine Parks Authority, NSW Office of Water, Land and Property Management NSW, Communities NSW, Tourism NSW, commercial fishing organisations, conservation and scientific advisers and the leading tackle and boating industry associations
- adequate administrative funding by the government, including but not limited to funding from the recreational fishing fee trusts. (*Source Submission 943, p 8.*)

The functions of the new body would be to 'advise and act on and act on non-core fisheries activities, particularly activities funded through the licence fee trust funds.' This would not preclude it from providing services currently provided by government:

It would work through a team of selected and elected members in a structure that would, without duplication or overlap, address all key areas and issues (for example, access, conservation, education). It would have a strong advocacy role and would be able to undertake and commission projects in its own right. It would be able to secure and hold management or trustee rights for Crown Land relevant to recreational fishing access.

The formation of a Recreational Fishing Council would provide NSW with a dedicated body empowered with the management of important aspects of recreational fishing. It would effectively and inclusively harness the existing capabilities of the recreational fishing community which, once properly funded, would become more streamlined, cohesive and focused on more effective cooperation with Fisheries and other agencies.

It would provide government and private enterprise with a unified and more responsive single point of consultation on all major recreational fishing issues. A Recreational Fishing Council would act as a centralised, empowered body to negotiate access and other rights for recreational fishers. (*Source Submission 943, p 8.*)

The USFA called for an alternative representative and management structure for recreational fishing management in New South Wales – proposing that an independent New South Wales Recreational Fishing Council be created. (*Source Mr Saunders, Evidence, 27 April 2010, p 31.*) Mr Adrian Wayne, Vice-President, Underwater Skindivers and

Fishermen's Association, said this new body would essentially replace ACoRF but have a wide scope and in certain respects take on functions currently performed by Fisheries and Compliance:

You require a fisheries department, but I do not believe that we need it to be the size that it is. When it comes to whatever the fisheries department has to do with recreational fishing only, we should have a far greater input in as much as all of the different fishing-type groups should have a committee, similar to what the Advisory Council on Recreational Fishing [ACoRF] is now, but represented by the fishing groups, that actually come up with the bag limits and size limits, look for the type of science they require, look through records of catches and catch rates, which are not done now. All of those things should be done so that when any regulation is set down, it is set down with the input of the fishing people, not fishing scientists telling us what it is going to be. That is basically what we are looking at. (*Source Mr Adrian Wayne, Vice-President, Underwater Skindivers and Fishermen's Association, Evidence, 27 April 2010, p 32.*)

During the inquiry the Committee briefly explored the concept of whether the called-for independent recreational fishing body should take the form of a statutory body, perhaps along the lines of the New Zealand Fish and Game Council, which is responsible for ensuring recreational fishing access to rivers and streams – a major issue for inland fishers in NSW.

In evidence Mr David Screen, President, Lakeside Fly Fishing Club, noted that the Fish and Game Council was more than just an advocacy body, and as a government statutory authority it exercised control over fishing licences. He agreed that such a body would be effective in resolving the access problems regularly faced by his fellow members:

So that is what I think we should probably do here. That would be the best alternative. You have something that has a bit of clout and a bit of responsibility and also then the capacity to negotiate at that sort of level with landholders, with local chambers of commerce, local councils and also the fishing clubs and the other bodies that might hop on board. (*Source Mr David Screen, President, Lakeside Fly Fishing Club, Evidence, 19 April 2010, p 74.*)

In many ways the New Zealand Fish and Game Council embodies many of the features that NSW anglers identified as what an independent representative body requires. There are a number of regional Fish and Game Councils whose members are popularly elected by licence holders. A member from each regional council is then appointed to comprise the overarching New Zealand Fish and Game Council.

The functions of the council system include assessing and monitoring sports fish and game populations and the condition of relevant habitat; maintaining and improving access and habitat; developing and recommending regulations for fishing and hunting; develop appropriate research programs; and advocate generally and in any statutory planning process the interests of anglers and hunters. Each council develops sports fish and game management plans which are publicly exhibited prior to approval by the Minister. The system incorporates a management, advocacy and advisory role.

Mr Samuels was also very much in favour of adopting a model similar to the Fish and Game Council, however he was not optimistic that the government would support such a move:

I have some understanding that it is based on election—people are elected and they control the finances as well at arm's length from government. So yes, I understand that model. I have to be realistic here: I would love it if we had that here; I think that would be great. But I have got to live in a real world. I do not think that the Australian Parliament has the capacity to enter into that headspace at the moment. (*Source Mr Samuels, Evidence, 30 August 2010, p 39.*)

The submission from AFTA/BIA states that options for an entity of the kind being recommended by NSW recreational fishing organisations were recently explored for Fisheries Victoria (Source Submission 891, p 43.). The submission further noted that a governance project to explore similar options for NSW was funded by the Recreational Trusts in 2007, however it states that it has become 'mired in the I & I bureaucracy' and initiative has been lost. (*Source Submission 891, p 44.*)

Committee comment

Due to the way the course of the Inquiry proceeded, the proposals for an alternative governance model for recreational fishing were not able to be examined in the detail they deserved. During the public examination of

management issues focus was given to the need for a truly representative body, without exploring alternative management options with most inquiry participants.

However the Committee notes that there was previously a move to investigate this issue and explore governance options in NSW. Given the recent additional exploration of this concept in other States it is perhaps timely for I & I to revisit and reinvigorate this investigation.

Recommendation 18

That Industry & Investment NSW, as a matter of priority, undertake a consultative research project to develop options for an alternative governance structure for recreational fishing in NSW.

Industry & Investment NSW should provide the funds for the research, however an independent, professional consultant should undertake the work."

Resolved, on the motion of Ms Voltz: That Chapter 5, as amended, be adopted.

Chapter 6 read.

Resolved, on the motion of Mr Cohen: That paragraph 6.3 be amended by omitting the word: "Nevertheless" immediately before the words "two surveys."

Resolved, on the motion of Ms Voltz: That a duplicate of paragraph 6.3 be inserted immediately before paragraph 4.11.

Resolved, on the motion of Ms Voltz: That paragraph 6.46 be amended by omitting the words: "It is not surprising that" immediately before the words "RFHs are overwhelmingly supported."

Mr Cohen moved: That paragraph 6.47 be omitted, which reads:

"The Committee finds it difficult to come to terms with the premise that establishing a RFH could place greater fishing pressure on an area. It is hard to imagine that recreational fishing alone would place greater pressure than if both recreational and commercial were allowed. The limited research on RFHs seems to confirm this view."

Question put.

The Committee divided:

Ayes: Mr Catanzariti, Mr Cohen, Ms Robertson, Ms Voltz

Noes: Mr Brown, Mr Colless

Question resolved in the affirmative.

Resolved, on the motion of Mr Cohen: That paragraph 6.48 be amended by omitting the word "Nevertheless" immediately before the words "it is important."

Mr Cohen moved: That paragraph 6.61 be omitted, which reads:

"The Committee recommends that I & I investigate and identify in which locations and circumstances limited commercial access to recreational fishing havens might be appropriate."

Question put.

The Committee divided:

Ayes: Mr Catanzariti, Mr Cohen, Ms Robertson, Ms Voltz

Noes: Mr Brown, Mr Colless

Question resolved in the affirmative.

Resolved, on the motion of Ms Robertson: That Recommendation 20 be amended by inserting the words "and professional" immediately after the word "recreational."

Resolved, on the motion of Mr Cohen: That Recommendation 21 be amended by omitting the words "action should be taken to offset any loss of recreational fishing access or amenity" and inserting instead the words: "mitigating actions and remediation programs can be established in proximity to the Botany Bay Recreational Fishing Haven to maintain or improve recreational fishing opportunities."

Resolved, on the motion of Mr Cohen: That paragraph 6.94 be amended by omitting the words "were not happy" immediately after the words "inquiry participants" and inserting instead the word "disagreed."

Resolved, on the motion of Mr Cohen: That paragraph 6.98 be amended by omitting the words "that this has generally been a highly successful endeavour that" immediately after the words "trout stocking for over 100 years and", by omitting the word "while" immediately before the words "certain inquiry participants" and by omitting the words "overall trout stocking has been beneficial to recreational fishing in NSW" immediately after the words "threaten native species."

Resolved, on the motion of Mr Cohen: That paragraph 6.115 be amended by omitting the words "Hon Robert Brown MLC" and inserting instead the word "Chair."

Resolved, on the motion of Mr Cohen: That paragraph 6.118 be amended by omitting the word "for" immediately after the words "not equitably accommodated" and by omitting the second sentence which reads: "This issue is examined in Chapter 9 where the Committee recommends action to address this concern."

Mr Cohen moved: That paragraph 6.119 be omitted, which reads:

"The Committee is interested in the potential of deploying artificial reefs within appropriate areas of marine parks as a means of easing the current discontent of many recreational fishers. The Committee believes the Marine Parks Authority should explore this potential further, and seek to identify at least one location within each marine park where an artificial reef could be deployed without negatively affecting nearby sanctuary zones."

Question put.

The Committee divided:

Ayes: Mr Cohen

Noes: Mr Brown, Mr Catanzariti, Mr Colless, Ms Robertson, Ms Voltz

Question resolved in the negative.

Mr Cohen moved: That Recommendation 22 be omitted, which reads: That the Marine Parks Authority identify at least one location within each marine park where an artificial reef could be deployed without negatively affecting nearby sanctuary zones" and inserting instead a new recommendation to read:

"That the Marine Park Advisory Committees for each NSW Marine Park consider whether artificial reefs could be developed within park boundaries consistent with the Marine Parks Act and enhance the conservation objectives of the Act".

Question put.

The Committee divided.

Ayes: Mr Cohen

Noes: Mr Brown, Mr Catanzariti, Mr Colless, Ms Robertson, Ms Voltz.

Question resolved in the negative.

Resolved on the motion of Mr Cohen: That paragraph 6.122 be amended by omitting the final sentence which reads: "I & I should allay these concerns by providing appropriate information on the FAD website" and inserting instead a new sentence to read:

"The Committee encourages I & I to provide ongoing, appropriate information on the FADs website about the sustainability of fish species in relation to these devices."

Resolved, on the motion of Mr Catanzariti: That Chapter 6, as amended, be adopted.

Chapter 7 read.

Resolved, on the motion of Ms Voltz: That the first introductory paragraph of Chapter 7 be amended by omitting the words "used to be a relaxed and basic" immediately after the words "what historically" and inserting instead the words "used to be an unregulated" and by omitting the words "a raft of" immediately before the words "regulations and requirements."

Resolved, on the motion of Mr Cohen: That the second introductory paragraph of Chapter 7 be amended by inserting the words: "The environmental sustainability and" immediately after the words "various government agencies can affect."

Resolved on the motion of Mr Cohen: That paragraph 7.10 be amended by omitting the words "was keen" immediately after the words: "The Committee" and inserting instead the word "sought."

Resolved on the motion of Ms Voltz: That paragraph 7.13 be amended by omitting the word "must" immediately after the words: "However, it believes there" and inserting instead the word "may."

Resolved, on the motion of Ms Robertson: That Recommendation 23 be amended by omitting the words "seek to increase" immediately after the words: "That Industry & Investment NSW" and inserting instead the words "investigate increasing."

Resolved on the motion of Mr Cohen: That paragraph 7.23 be amended by omitting the words: "Particularly at the start of the Inquiry" at the beginning of the first sentence, and by omitting the word: "Typically" immediately before the words "these submissions."

Resolved on the motion of Mr Cohen: That paragraph 7.38 be amended by omitting the words: "At the same time" immediately before the words "the Committee notes."

Resolved on the motion of Ms Voltz: That paragraph 7.39 be omitted, which reads:

"The prohibition of set lines has caused obvious dissatisfaction for a number of inland fishers. The Committee can understand their frustration if the decision was primarily based on a slim majority of submissions to the last review, particularly when many of those who were against the prohibition were not aware of it and did not make a submission."

Mr Catanzariti moved: That Recommendation 24 be amended by omitting the word "set" and inserting instead the word "attended" and inserting the words "with a maximum distance of 100 metres allowable to the fisher" immediately after the words "attended lines be reinstated", and by inserting the words "should be" immediately before the words "revisited during".

Question put.

The Committee divided:

Ayes: Mr Brown, Mr Catanzariti, Mr Colless, Ms Voltz

Noes: Mr Cohen, Ms Robertson

Question resolved in the affirmative.

Resolved, on the motion of Ms Voltz: That paragraph 7.138 be inserted after paragraph 4.111.

4. Adjournment

The Committee adjourned at 8:10 pm, until 10 am on Friday 3 December.

Rachel Simpson

Clerk to the Committee

Minutes No. 15

Friday 3 December 2010

Select Committee on Recreational Fishing

Rooms 1153, Parliament House, Sydney, at 9.05 am

1. Members present

Mr Brown (Chair)
Mr Catanzariti (Deputy Chair)
Mr Cohen
Mr Colless
Mr Lynn
Ms Robertson
Ms Voltz

2. Previous Minutes

Resolved, on the motion of Mr Colless: That draft Minutes No 14 be confirmed.

3. Consideration of Chair's draft report

The Committee continued to consider Chapter 7 of the draft report.

Resolved, on the motion of Ms Voltz: That paragraph 7.43 be amended by omitting the words "general uproar among" before the words "the recreational fishing sector" inserting instead "broad protest."

Resolved, on the motion of Ms Voltz: That paragraph 7.47 be amended by omitting the words: "It is of concern to" before the words "the Committee", by inserting the word "notes" before the words "some fishers" and by inserting the words "if they are elderly or disabled" after the words "participate in their pastime."

Ms Voltz moved: That paragraph 7.48 be omitted, which reads:

"The Committee was advised that the rationale behind the move to prohibit electric reels is that it was viewed as amounting to harvesting as opposed to angling. (*Source Mr Turnell, Evidence, 19 April 2010, p 16.*) If that was the sole consideration, and the Committee was not advised of any other, then the Committee finds it hard to argue with the premise that if the bag and size limits for fish targeted by electric reels are appropriate then a prohibition on electric reels seems unnecessary."

Question put.

The Committee divided:

Ayes: Mr Catanzariti, Mr Cohen, Ms Roberston, Ms Voltz

Noes: Mr Brown, Mr Colless, Mr Lynn

Question resolved in the affirmative.

Resolved, on the motion of Mr Cohen: That paragraph 7.55 be amended by omitting the words: "As noted in Chapter 3" before the words "for many recreational fishers" and by inserting the words "as noted in Chapter 3" after the words "fishing trip."

Resolved, on the motion of Mr Cohen: That paragraph 7.57 be omitted, which reads:

"The Committee notes that if bag limits were significantly reduced this would have no effect on at least eighty per cent of the recreational fishing sector. It was put to the Committee that such action could result in a more equitable reallocation of resources between recreational fishers. (*Source Professor Robert Kearney, Emeritus Professor of Fisheries, University of Canberra, Evidence, 27 April 2010, p 18.*)

Resolved, on the motion of Ms Voltz: That paragraph 7.69 be amended by omitting the word "What" before the words "the discussion", by omitting the word "also" before the word "demonstrates" and by omitting the word "is" before the words "the importance."

Resolved, on the motion of Mr Cohen: That paragraph 7.72 be amended by omitting the words "solid wearing" before the words "published version" and inserting instead "durable."

Resolved, on the motion of Mr Cohen: That paragraph 7.75 be amended by inserting the words "to be" before the words "receiving up to date."

Resolved, on the motion of Mr Cohen: That paragraph 7.86 be amended by inserting the word "adult" before the word "licence."

Resolved, on the motion of Mr Cohen: That paragraph 7.87 be amended by omitting the word "it" after the words "communication channel with" inserting "them."

Resolved, on the motion of Ms Voltz: That the second and third sentences of paragraph 7.87 be omitted, which read:

"The best way to do this would be through a requirement for pensioners to acquire and renew a fishing licence. However, the Committee does not believe that this group should pay a fee, even if only nominal, for the provision of a licence. Similarly there should be scope for these licences to remain current for a longer period before requiring renewal."

Mr Cohen moved: That Recommendation 27 be amended by omitting the words "current exemptees" after the words "registration scheme for" and inserting instead the words "all, licensed fishers, other than exemptees."

Question put.

The Committee divided:

Ayes: Mr Brown, Mr Catanzariti, Mr Cohen, Mr Colless, Mr Lynn, Ms Voltz

Noes: Ms Robertson

Question resolved in the affirmative.

Resolved, on the motion of Ms Robertson: That Recommendation 28 be omitted, which reads:

"That Industry & Investment NSW employ and fund an additional ten fisheries compliance officers positions" inserting instead: "That Industry & Investment NSW undertake a review of the staffing of compliance officers positions, with the view of the need for extra compliance officers."

Resolved, on the motion of Mr Cohen: That paragraph 7.117 be amended by omitting the words "- something that does not occur that often for the average recreational fisher" after the words "number of fish" in the first sentence and by omitting the words "only after a certain number of fish are taken" after the words "could be required" in the second sentence.

Resolved, on the motion of Mr Cohen: That a new Recommendation be inserted after paragraph 7.118 to read: "That fin clipping for all recreational fish be investigated."

Mr Cohen moved: That paragraph 7.124 be omitted, which reads:

"The Committee is not inclined to believe that the actions of the Government with respect to recreational fishing issues would have been different had there still been a Minister for Fisheries. The Committee has made recommendations for the establishment of an independent representative body, and for the Minister for Primary Industries to be the sole Minister responsible for the management of marine parks."

Question put.

The Committee divided:

Ayes: Mr Catanzariti, Mr Cohen, Ms Robertson, Ms Voltz

Noes: Mr Brown, Mr Colless, Mr Lynn

Question resolved in the affirmative.

Mr Cohen moved: That paragraph 7.125 be omitted, which reads:

"The Committee believes that if these two recommendations are implemented many of the concerns that have led to the call for a Minister for Fisheries should be addressed."

Question put.

The Committee divided:

Ayes: Mr Catanzariti, Mr Cohen, Ms Robertson, Ms Voltz

Noes: Mr Brown, Mr Colless, Mr Lynn

Question resolved in the affirmative.

Ms Robertson moved: That paragraph 7.136 be amended by omitting the second sentence, which reads: "However, it does agree there is potential in the concept which should be seriously examined"

Question put.

The Committee divided:

Ayes: Mr Catanzariti, Mr Cohen, Ms Roberston, Ms Voltz

Noes: Mr Brown, Mr Colless, Mr Lynn

Question resolved in the affirmative.

Ms Robertson moved: That Recommendation 29 be omitted, which reads:

"That the NSW Government investigate the potential operational efficiencies that could accrue from amalgamating the regulation, compliance and educational functions performed by the Marine Parks Authority, Fisheries and Compliance (Industry & Investment NSW), and NSW Maritime."

Question put.

The Committee divided:

Ayes: Mr Catanzariti, Mr Cohen, Ms Roberston, Ms Voltz

Noes: Mr Brown, Mr Colless, Mr Lynn

Question resolved in the affirmative.

Mr Catanzariti left the meeting.

Resolved on the motion of Mr Cohen: That paragraph 7.151 be amended by omitting the words: "It is clear" before the words "that more needs to be done" inserting instead the words: "The Committee contends".

Resolved, on the motion of Ms Robertson: That Recommendation 30 be amended by omitting the words "create, fund and" after the words "Industry & Investment NSW", by inserting the word "the" after the word "fill" and by inserting the word "vacant" after the word "two."

Resolved on the motion of Ms Voltz: That paragraph 7.158 be amended by omitting the words "what recreational fishers will then be required to do to continue to have access" after the words "take into account" and inserting instead the words "access for recreational fishers."

Resolved, on the motion of Ms Robertson: That Recommendation 31 be amended by omitting the second paragraph that reads "That specified fishing access to Prospect Reservoir be allowed on a trial basis" and by inserting the words "in particular at the Prospect Reservoir on a trial basis" after the words "that could be permitted" in the first sentence.

Resolved, on the motion of Mr Colless: That Chapter 7, as amended, be adopted.

Chapter 8 read.

Resolved, on the motion of Mr Cohen: That paragraph 8.22 be amended by omitting the word "for" after the words "spirit of the Act and allow" in the third sentence and by omitting the words "imbued with common sense and are practicable" inserting instead "practical."

Resolved, on the motion of Mr Cohen: That a new paragraph be inserted after paragraph 8.22, to read:

"The Committee recognises that the regulations need to be addressed to allow the removal of the cultural catch outside the high tide zone for preparation and consumption."

Resolved on the motion of Ms Robertson: That paragraph 8.45 be amended by omitting the final sentence, which reads: "It should be noted that other recreational fishers expressed similar dissatisfaction with the consultation process."

Resolved, on the motion of Ms Voltz that a new Recommendation be inserted after Recommendation 32, to read:

"That Industry & Investment NSW should also investigate the suitability of the licensing system to be inherited by family members along traditional lines without the family members having to apply for a new licence. These licences should be issued with comparative rights for the member inheriting the licence."

Resolved, on the motion of Ms Robertson: That Chapter 8, as amended, be adopted.

Chapter 9 read.

Resolved, on the motion of Mr Cohen: That paragraph 9.32 be amended by inserting the words "displaying spearfishing prohibition signs" after the words "carrying spear guns into National Parks."

Mr Cohen moved: That paragraph 9.44 and the quote following it be omitted, which read:

"There was a sense of dissatisfaction among spearfishers about the implementation of marine parks. Many questioned the science supporting marine parks felt that their issues had been ignored during the zoning process. Mr Brown explained these feelings:

Basically, we see marine parks as being more or less a sop to the green movement that has been increasing and demanding restrictions on spearfishing. We do not believe that overseas science can be applicable to the situation in New South Wales where we have a reasonably well-regulated and well-managed fishery and plenty of fish in the ocean. Spearfishers will generally notice things that are occurring in the ocean several years before researchers pick them up. Certainly with the proliferation of recreational fishing reserves and other items, we are quite confident the overall quantity of fish in New South Wales has been increasing and doing so for a number of years." (*Source Mr Brown, Evidence, 29 April 2010, p 32.*)

Question put.

The Committee divided:

Ayes: Mr Cohen, Ms Robertson, Ms Voltz

Noes: Mr Brown, Mr Colless, Mr Lynn

Question resolved in the affirmative, on the casting vote of the Chair.

Resolved, on the motion of Mr Cohen: That paragraph 9.51 be amended by omitting the words "deeply upset" after the words "spearfishers were" and inserting instead the word "concerned."

Resolved, on the motion of Mr Cohen: That paragraph 9.59 be amended by omitting the third and fourth sentences of the quote, which read:

We have to be within 20 metres of a headland and what is that? All the headlands happen to be sanctuaries. There is bit of a problem here. (*Source Mr Wady, Evidence, 27 April 2010, p 34.*)

Question put.

The Committee divided:

Ayes: Mr Cohen, Ms Robertson, Ms Voltz

Noes: Mr Brown, Mr Colless, Mr Lynn

Question resolved in the affirmative, on the casting vote of the Chair.

Resolved, on the motion of Ms Voltz: That paragraph 9.62 be amended by inserting the words "in general" after the words "fishing method and that."

Resolved, on the motion of Mr Cohen: That paragraph 9.63 be amended by omitting the second sentence, which reads: "It is recognised that spearfishers, especially those aligned with the USFA abide by a self-regulated system bag and size limits." and by omitting the last sentence, which reads: "Self-regulation should therefore is to be encouraged."

Resolved, on the motion of Ms Voltz: That Recommendation 33 be amended by omitting the word "exclusive" after the words "potential for."

Resolved, on the motion of Mr Colless: That Chapter 9, as amended, be adopted.

Chapter 10 read.

Resolved, on the motion of Mr Cohen: That paragraph 10.31 be amended by inserting the sentence: "Consideration of lifejackets should include non-inflatable, buoyant lifejackets, similar to those worn by big wave surfers." before the final sentence.

Resolved, on the motion of Ms Robertson: That Recommendation 34 be omitted, which reads: "That Industry & Investment NSW conduct research into the most appropriate type of lifejacket for rock fishers and publicise this information" and inserting instead a new recommendation to read:

"That the Water Safety Advisory Council investigate the most appropriate type of lifejacket for rock fishers and publicise this information and further investigate the possibility of introducing mandatory use of lifejackets for rock fishers particularly at high risk fishing sites."

Resolved, on the motion of Ms Robertson: That Recommendation 35 be omitted, which reads:

"That Industry & Investment NSW consider whether it is necessary to make the wearing of lifejackets mandatory for all rock fishers"

Resolved, on the motion of Mr Cohen: That paragraph 10.37 be amended by omitting the word "be" before the words "more conducive environments" and inserting instead the word "develop."

Resolved, on the motion of Ms Voltz: That paragraph 10.37 be moved to join the end of paragraph 10.35.

Resolved, on the motion of Ms Voltz: That paragraph 10.38 be amended by omitting the words "by 0.3 per cent" after the words marine park in the final sentence.

Resolved, on the motion of Ms Voltz: That paragraph 10.41 be omitted, which reads:

"The Hon Robert Brown MLC, Chair of the Select Committee on Recreational Fishing, raised similar apprehensions in the Legislative Council. The Chair was concerned that spearfishers had been deliberately excluded from the zone, despite targeting the same range of fish species as other recreational fishers. (*Source LC Questions and Answers Paper (31/08/2010) 5326.*) The Government explained that spearfishers would not have access to the area because it is exposed to dangerous swells and shoals and because the proposed habitat protection zone bordered the Booderee National Park, which does not allow the carriage of spear guns." (*Source LC Questions and Answers Paper (31/08/2010) 5326-5327.*)

Mr Lynn left the meeting.

Mr Cohen moved: That paragraph 10.42 be amended by omitting the words "Chief Executive Officer" after the "Mr Ken Thurlow."

Question put.

The Committee divided:

Ayes: Mr Cohen, Ms Robertson, Ms Voltz

Noes: Mr Brown, Mr Colless

Question resolved in the affirmative.

Resolved, on the motion of Ms Voltz: That Chapter 10, as amended, be adopted.

Chapter 11 read.

Resolved, on the motion of Mr Cohen: That paragraph 11.1 be amended by omitting the words "generally dismayed and angered" after the words: "The recreational fishing sector was" and inserting instead the word "concerned" and by inserting the word "perceived" before the words "loss of access."

Ms Robertson moved: That paragraph 11.10 be omitted, which reads: "The Committee believes that the commercial fishing industry must be granted a reprieve from further loss of access. It is of the view that any proposal to remove

the current prawn trawling industry from the Solitary Islands Marine Park should be deferred until the next zoning review, or at least until the next five year research cycle on evaluation and monitoring of marine parks is completed" inserting instead a new paragraph to read:

"The Committee notes that a range of views have been expressed about the proposal to phase out prawn trawling in Solitary Islands Marine Park and that the Minister for Climate Change and the Environment and the Minister for Primary Industries will be considering the submissions and comments from the local marine park advisory committee prior to making the final zoning plan."

Question put.

The Committee divided:

Ayes: Mr Cohen, Ms Roberston, Ms Voltz

Noes: Mr Brown, Mr Colless

Question resolved in the affirmative.

Ms Voltz moved: That Recommendation 36 be omitted, which reads: "That the Marine Parks Authority retract the proposal to ban commercial prawn trawling within the Solitary Islands Marine Park" inserting instead a new recommendation to read:

"That Industry & Investment NSW in consultation with recreational fishers and other relevant bodies, investigate and identify locations and circumstances in which limited commercial access can be maintained."

Question put.

The Committee divided:

Ayes: Mr Cohen, Ms Roberston, Ms Voltz

Noes: Mr Brown, Mr Colless

Question resolved in the affirmative.

Resolved, on the motion of Mr Cohen: That paragraph 11.15 be amended by omitting the word: "However" before the words "the Committee heard" and by omitting the words "and anguish" after the words "some consternation."

Resolved, on the motion of Mr Cohen: That paragraph 11.20 be amended by omitting the words "made a point" after the words Mr Lawrence McEnally in the first sentence and inserting instead the word "stated" and by omitting the words "also made the point, frequently put to the Committee" after the words "Mr McEnally" in the second sentence and inserting instead the word "stated."

Resolved, on the motion of Mr Cohen: That paragraph 11.23 be amended by omitting the words: "It was obvious that" before the words "the buyout process" in the first sentence and by omitting the word "strong" before the word "view" in the second sentence.

Resolved, on the motion of Mr Cohen: That paragraph 11.24 be amended by omitting the words "exactly how much" before the words "commercial fishing pressure" and inserting instead the words "the level of", and by inserting the word "which" before the words "can be borne."

Resolved, on the motion of Mr Cohen: That paragraph 11.26 be amended by omitting the word "woefully" before the word "inadequate."

Resolved, on the motion of Mr Cohen: That paragraph 11.33 be amended by omitting the word "fishing" before the words "to aquaculture" inserting instead "wild fisheries."

Resolved, on the motion of Ms Robertson: That Recommendation 37 be omitted, which reads: "That Industry & Investment NSW publish and publicise information on the discarded commercial by-catch for key fish species in NSW" inserting instead a new recommendation to read:

"That Industry & Investment NSW publish information on the discarded by-catch in New South Wales."

Resolved, on the motion of Mr Cohen: That paragraph 11.50 be amended by omitting the words: "As stated earlier" before the words "it was evident that" in the first sentence and by omitting the second and third sentences, which read:

"It was also evident that there was a degree of goodwill between respective organisations and individuals from both sectors. However, there still remains a strong underlying conflict and sense of ill-will borne out of the fact that they are competing for the same resource."

Resolved, on the motion of Mr Cohen: That paragraph 11.52 be amended by omitting the words "understandable but" before the words "incorrect assumptions."

Resolved, on the motion of Ms Voltz: That paragraph 11.57 be omitted, which reads:

"The Committee notes that while such practices would always be viewed as morally objectionable, if the practice is permissible then the problem lies mores with the regulatory system that allows it than those who employ it."

Resolved, on the motion of Ms Voltz: That paragraph 11.72 be amended by omitting the words "It is undeniable that" before the words "the commercial and recreational fishing sectors."

Resolved, on the motion of Ms Voltz: That paragraph 11.74 be amended by inserting the word "some" before the word "representatives."

Resolved, on the motion of Ms Robertson: That Recommendation 38 be amended by omitting the word "formally" before the word "establish."

Resolved, on the motion of Ms Voltz: That Chapter 11, as amended, be adopted.

Resolved, on the motion of Mr Cohen: That the fifth paragraph of the Chair's forward be omitted, which reads: "This Report contains X Dissenting Reports, and the Committee urges the Government to take note of these Dissenting Reports, Where Members of the Committee could not agree on the text of The Report, divisions were called, and the subject matter of the vote is included in the Minutes of meetings dated XX/XX/XXXX, and XX/XX/XXXX" inserting instead:

"Given the controversial nature of the report, attention is drawn by the Chair to various dissenting reports, appended to the report."

Resolved, on the motion of Ms Robertson: That the draft report, as amended, be the report of the Committee and that the Committee present the report to the House, together with transcripts of evidence, submissions, tabled documents, answers to questions of notice, minutes of proceedings and correspondence relating to the inquiry, except for documents kept confidential by resolution of the Committee.

4. Thank you letters

Resolved, on the motion of Ms Robertson: That the Chair write a letter of thanks to the representatives of the Wallaga Lake and Mogo communities it met at the Aboriginal Land Council, Mogo, for their excellent contribution to the Inquiry.

5. Adjournment

The Committee adjourned at 11:45 am.

Stewart Smith

Clerk to the Committee

Appendix 9 Dissenting statements

Dissenting statement – Hon Robert Brown MLC, Hon Rick Colless MLC, Hon Charlie Lynn MLC

Given the controversial nature of the Inquiry, and the resulting high number of Divisions taken by the Committee Members on changes to the Chair's Draft Report, this dissenting statement is provided so that readers may be apprised of the text that has been omitted or amended from the Draft Report as considered by the Committee.

As Dissenting Statements are limited to 1,000 words, the Divisions are listed by Minutes number (that is, #13, #14, and #15), and then by paragraph number.

It should be noted that the paragraph numbers below refer to the paragraph numbers in the original Draft Report. Paragraph numbers in the Final Report as presented have been reformatted to account for the deletions and amendments.

The Draft text that has been omitted or amended, can be read by referring to the paragraph or recommendation number in the relevant set of Minutes, which are also appended to this Inquiry Report.

Many more words, paragraphs, and quotations were omitted or amended than those listed below. However, those changes were supported by all Committee Members and thus no vote taken or Division recorded.

List of clauses, headings, witness statements or Recommendations where a dissenting vote was recorded:

Minutes # 13

Paragraph 2.5 omitted;
paragraph 2.26 amended;
paragraph 2.27 amended;
paragraph 3.36 amended;
paragraph 3.45 amended;
paragraph 3.87 amended;
paragraph 3.90 omitted;
paragraph 3.98 amended;
paragraph 3.102 omitted;
paragraph 3.141 omitted;
paragraph 3.177 omitted;
paragraph 4.34, including quote, omitted;
paragraph 4.40 amended;
paragraph 4.41 omitted;
paragraph 4.49 omitted;
paragraph 4.55 omitted;
Heading immediately before paragraph 4.67 and paragraphs 4.67 to 4.70 omitted.
(17 from Minutes #13)

Minutes # 14

Paragraph 4.79 amended;
paragraph 4.89 omitted;
paragraph 4.98 omitted;
paragraph 4.103 amended;
paragraph 4.110 omitted;
paragraphs 4.127 and 4.128 omitted;
Title "Types of habitat within sanctuary zones" and paragraphs 4.129, 4.130, 4.131, 4.132, 4.133 omitted;
paragraph 4.134 amended;
paragraph 4.152 amended;
paragraph 4.176 amended;
paragraph 4.178, including quote be omitted;
paragraph 4.179, including quote be omitted;
paragraph 4.180 omitted;
paragraphs 4.248, 4.249 omitted;
paragraph 4.252 omitted;
paragraph 4.259 amended;
paragraph 4.260 omitted;
Recommendation 10 omitted;
Recommendation 10 amended;
paragraph 4.268 omitted;
paragraph 4.271 amended;
paragraph 4.295 amended;
paragraph 4.319 amended;
paragraph 4.323 omitted;
paragraph 4.338 omitted;
paragraph 4.340 omitted;
paragraph 4.345 amended;
Title "The Torn Blue Fringe and Marine Park 'Science paper'", paragraphs 4.348, 4.349, 4.350, 4.351, 4.352, 4.353, 4.354, 4.355 and 4.356 omitted;
Heading: "Is the marine park system too small and disconnected?" omitted, paragraphs 4.357, 4.358, 4.359, 4.360, 4.361, 4.362, 4.364, 4.365 omitted;
Heading: "Restrictions of fishing does not by itself ensure a marine area is protected" omitted, paragraphs 4.366, 4.367, 4.368, 4.369, 4.370 omitted;
paragraphs 4.371, 4.372 omitted;
paragraph 4.373 omitted;
paragraph 4.385 omitted;
paragraph 4.399 omitted;
paragraph 4.400 amended;
paragraph 4.401 omitted;
paragraph 4.402 omitted;
paragraph 5.67 amended;
paragraph 5.74 amended;
paragraph 6.47 omitted;
paragraph 6.61 omitted.
(41 from Minutes #14)

Minutes # 15

Paragraph 7.48 omitted;
paragraph 7.124 omitted;
paragraph 7.125 omitted;
paragraph 7.136 amended;
Recommendation 29 omitted;
paragraph 9.44 omitted;
paragraph 9.59 amended;
Paragraph 10.42 amended;
paragraph 11.10 omitted;
Recommendation 36 omitted.
(10 from Minutes #15)

(68 Divisions from Draft Minutes #13, 14 & 15, as listed above)

Many of the deletions from the Draft Report as a result of these divisions were paragraphs relating to comments and evidence given by persons and organisations that are supportive of the commercial and recreational fishing industries while many of the comments and evidence submitted by persons and organisations representing the environmental movements were not challenged during the deliberative process.

This has resulted in a bias in the report which may tend to give the reader the impression that there is little concern in the commercial and recreational fishing fraternities about the increasing restrictions on fishing as a result of the expansion of marine park exclusion zones.

This is not the case. The Committee heard from many fishers who are very concerned at the over-regulation of the industry and the economic impact it will have on their collective communities.

The common argument is that "only 20% of the area has been closed to fishing – you can still fish in the remaining 80%". While this statement is technically correct, many of the fishers submitted that the 20% closed off contains the better reefs and fishing grounds, while the majority of the 80% remaining contains mainly sand flats and other "fish free" areas, so that fishers are forced to overfish the small areas of productive reefs and grounds that are excluded from the exclusion zones.

It is therefore recommended that readers wishing to obtain a clear picture of the concern in the industry should carefully read the deletions and amendments referred to in the appended Minutes of the deliberative meetings and as referred to above.

Dissenting statement – Hon Christine Robertson MLC

Due to the inherently political nature of this enquiry the report does not provide a full overview of recreational fishing or marine parks.

This dissenting statement relates to the recommendation concerning the use of set lines which mainly relates to Murray Cod fishing in inland waters. During the enquiry we heard considerable evidence about the efficacy of the consultation process for introducing the new rules relating to banning set lines, attended lines and the distance in metres a fisher can be from those attended lines. We also heard that there was to be a review of this in 2011. There was a small fishing club which wanted the reintroduction of set lines so that their members could leave them set overnight and return to their accommodation. There was no convincing evidence to immediately reinstate set lines.

I believe that this recommendation should read:

That the allowance of four set lines be revisited in the upcoming review to commence in 2011. The review should also include an alternative proposal to increase the number of attended lines to four and the distance that a fisher may be from those lines increased to 100m. Consultation methods should also be enhanced during the review to ensure input from relevant fishers and groups, particularly in the south-west area.