

Independent review of NSW commercial fisheries policy, management and administration: Terms of Reference

1. Examine the performance of the present public sector arrangements for the management of NSW fisheries and provide advice on whether the current arrangements or other models best address the governance, regulatory, research and administration needs of efficient and sustainable fish production in NSW;
2. Examine the present arrangements for consultation with key stakeholder groups in NSW, and recommend ways to improve the transparency and efficiency of how the NSW Government seeks and responds to stakeholder input;
3. Review the current legislation covering the fisheries sectors (including the basis for the issue of commercial fishery shares) and provide advice on how that legislation can better facilitate cost-effective and sustainable resource management to ensure our future seafood requirements and natural resource conservation;
4. Examine the present fisheries resource sharing arrangements in NSW, and provide advice on whether those arrangements are fair and equitable to all sectors, including seafood consumers;
5. Provide advice on efficient and effective functioning of fisheries management in NSW including opportunities for co-management of fisheries involving all stakeholder groups, such that the overall costs of fisheries management are not an unnecessary burden on either the stakeholder groups or the government; and
6. Provide advice on the most appropriate structural adjustment program to meet the objective of bringing into effect property rights through share management and facilitating fishing business and share class buyouts in a timely fashion.

Actions supporting the terms of reference

TOR 1: Current and alternative fisheries management models

- i. Consider the current governance, regulation, research and administration relating to the management of commercial fisheries in NSW and recommend any changes needed to enable the NSW Government to deal effectively with the issues and priorities foreshadowed in the Coalition Government's pre-election Fisheries Policy;
- ii. Carry out a comparative analysis of the arrangements in place in NSW against other Australian and international jurisdictions to determine if alternative models would be advantageous to NSW;
- iii. Review the process for allocating funds from the commercial fishing trust fund, and how this process relates to both stakeholder and Government priorities;
- iv. Formulate draft principles for cost recovery for commercial fisheries and provide advice on how and when they should be implemented.

TOR 2: Review of consultation framework

- i. Critically review the range of mechanisms currently used to seek advice from and communicate with stakeholders in respect of commercial fishing issues;
- ii. Consider consultative arrangements and experiences in other jurisdictions relating to commercial fisheries, particularly relating to regionally based consultation and expertise-based representatives versus elected representatives;
- iii. Identify alternative models to those currently used in respect of commercial fisheries in NSW that would improve consultation with stakeholders and be appropriate in the NSW context;
- iv. Examine the utility of increased use of electronic technologies for improving consultative processes.

TOR 3: Review of legislation to ensure effective resource management

- i. Review the requirements and processes provided for in the *Fisheries Management Act 1994* (and key regulations) for issuing shares within share management fisheries, taking account of any actions arising from the 2010 statutory review into that Act;
- ii. Review the process of, and basis for, issuing the existing shares within the Estuary General, Estuary Prawn Trawl, Ocean Hauling, Ocean Trawl and Ocean Trap & Line fisheries;
- iii. Identify whether any amendments to the *Fisheries Management Act 1994* (and key regulations) could be made to promote more effective and cost-efficient management of NSW's commercial fisheries;
- iv. Review the compliance related amendments to the *Fisheries Management Act 1994* (and key Regulations) that were made following the *Palmer Report on Illegal Fishing for Commercial Gain or Profit* in 2004 and the report by the Australian Institute of Criminology in 2007, *A national study of crime in the Australian fishing industry*, and recommend whether further changes are needed, including to incorporate a penalty points scheme for the commercial fishing sector.

TOR 4: Fisheries sharing arrangements relating to commercial fisheries access

- i. Review the current level of access to fisheries resources available to commercial fisheries in NSW and the factors that have modified access historically;
- ii. Review the use and utility of recognised fishing grounds, as provided for in the *Fisheries Management Act 1994*, as a means of protecting access for commercial fishers to important fishing areas (and thus ongoing fish supply for seafood consumers) and recommend changes to the Act if appropriate to better protect commercial fishing access;
- iii. Review how commercial fishing industry groups in other jurisdictions or other NSW industry sectors respond to access changes brought about by non-fishing uses of waterways (e.g. shipping and coastal development). Recommend any steps the NSW industry could take to improve its influence over or robustness to such changes.

TOR 5: Review of alternative fisheries management opportunities

- i. Consider past research and case studies relating to management in other fisheries and identify and assess co-management or other options that could work well in NSW;
- ii. Identify the types of fisheries services (or components thereof) currently undertaken by government that would be suitable for delivery through other models (e.g. co-management), including identifying any core functions that should not be delegated;
- iii. Identify the pre-requisites for recommended management options (including co-management or other models) within the NSW context.

TOR 6: Structural adjustment program

- i. Recommend the number of fishing businesses that should be removed through the payment of exit grants, in order to achieve a viable and sustainable commercial fishing industry in the medium to long term;
- ii. Identify shares or share classes that could be considered 'latent' and/or 'over-allocated' and recommend priorities for the buy-out of shares;
- iii. Assess and make recommendations on how shares in the following five share management fisheries should be linked to fishing access (output or input) – the Estuary General, Estuary Prawn Trawl, Ocean Hauling, Ocean Trawl and Ocean Trap & Line fisheries;
- iv. Recommend appropriate sequencing of the structural adjustment reforms for commercial fisheries and identify any issues and resources required for implementation (noting the link with recommendations arising from ToR 1);
- v. Assess the likely impact of the above recommendations on the post-harvest sector and recommend measures to mitigate any possible negative impacts on that sector and seafood supply;
- vi. Assess and make recommendations regarding complementary actions that could be taken by the NSW commercial fishing industry to contribute to an effective structural adjustment program.