

## Response to business adjustment program implementation issues from industry that were collated by Neil MacDonald

### Introduction

The Minister for Primary Industries, Lands and Water, Niall Blair, announced details of the NSW Commercial Fisheries Business Adjustment Program on 31 May 2016. This followed five years of consultation with industry and independent experts.

To help fishers with this reform, a number of assistance measures were announced and an undertaking was made to address implementation issues. An independent consultant, Mr Neil MacDonald, was contracted to collate a list of key industry issues relating to the details of implementing the Business Adjustment Program. Industry representatives involved in a range of different fisheries, share classes and regions were asked for their views on implementation of the Program. Issues such as alternate linkage options, revised minimum shareholdings and ITCALs, which the Government has already determined after previous consultations, were not part of the review.

### Response to report

The issues raised in the MacDonald report can be partitioned into three broad categories:

- matters of **policy affecting investment decisions** by commercial fishers where immediate resolution by Government would help to provide clarity for fishers when making business decisions;
- matters where **clarity is needed** prior to the commencement of the live subsidised trading market; and,
- **comments** reflecting industry sentiment that were either useful for government to note or were beyond the scope of the report.

The majority of comments and issues recorded by Neil MacDonald fell in the third category and were outside the scope of the review. Most common were comments about the linkages announced and not about how they are being implemented.

Other comments, not impacting on implementation but where more clarity was needed, were also received. Representatives from some fishing cooperatives or their members raised concerns about the potential for reduction in supply to cooperatives. Some concerns were raised about the sustainability of the new arrangements, in particular around the potential social impact of increased numbers of traps.

### Response to matters of policy affecting investment decisions:

The first group of responses to Mr MacDonald's questions included matters of implementation that could drive changes in investment decisions and would benefit from immediate action.

1. The key questions to date centre around whether shares will be available to purchase, the price of those shares, and how the subsidised share trading market will work.

In response to this concern, a 'preview round of the subsidised trading market will be run. With good participation from industry, this will provide an opportunity for fishers to understand how the trading system will operate and help them gain a better understanding of the availability of shares and/or market prices.

The preview round will involve registration packs being sent to all shareholders and regional training sessions being held to show fishers how to use the share trading market system. It will provide an opportunity for shareholders to place non-binding bids or offers in the online trading market and gain some insight into how the market works and how the subsidies will be applied. No actual transfers of shares will take place as a result of the preview round, i.e. no money or shares will change hands. The live subsidised share trading market will then be run early in 2017.

2. There has been a strong interest in the fishing business buyouts and requests have been made to extend or run additional rounds.

The decision described above to run a preview round of the subsidised share trading market creates an opportunity to extend the closing date to apply for a fishing business buyout. The new closing date is 2 December 2016. This will give fishers more time to consider their position and lodge an application in advance of the live subsidised share trading market, if desired.

3. There has been strong interest in the low interest rate loan offer, with over 50 loan applications submitted so far.

The decision described above to run a preview round of the subsidised share trading market creates an opportunity to extend the application period for the low interest loans. The new closing date is 2 December 2016. This will give fishers more time to consider their position and lodge a loan application in advance of the live subsidised share trading market, if desired.

4. Consistent with other share classes, the determination of an ITCAL for the ocean prawn share classes was requested to provide improved certainty of share value.

The Structural Adjustment Review Committee's (SARC's) draft recommendations circulated for shareholder feedback in July last year involved linking shares in the inshore and offshore prawn trawl sectors to "hull unit days" and applying a 'preliminary ITCAL' of 14,370 days, equating to 0.69 days per share. This ITCAL was not included in the announcement but will be re-introduced so shareholders in those share classes know how many shares they will need to cover the days they currently work.

Deferring the referral of this ITCAL to the TAF process until 2024, consistent with other fisheries, will also give ocean trawl fishers greater stability as the fishery transitions to the new framework.

5. A number of comments were received by Mr MacDonald about the uncertainty facing shareholders holding share classes that will go through the Independent Allocation Panel (IAP) process. This includes a need for clarity around business records and business amalgamations and exactly what information may be available for use by an IAP.

There has been strong interest in the fishing business buyouts, with over 70 applications being submitted so far. Despite this, some shareholders have been concerned that if they consolidate their fishing businesses under the buyout phase, the fishing activity/catches associated with the cancelled business would be lost or not able to be taken into account when:

- (a) determining if shareholders are 'active' for the purpose of priority access to shares and subsidy under the subsidised share trading market, or
- (b) allocating species shares should the future Independent Allocation Panel determine that fishers' activity forms part of the allocation criteria for issuing new species shares.

In response to (a), an inclusive approach to 'activity assessments' will be adopted that involves taking account of fishing activity associated with cancelled fishing businesses from which whole share classes are transferred to another business during the fishing business buyout. This will enable shareholders to consolidate shares with more confidence.

In response to (b), the Government is unable to pre-empt the Independent Allocation Panel's advice on the criteria for allocating the new species shares. However, the Department will ensure that the Independent Allocation Panel can consider the fishing activity of businesses that have been cancelled during the fishing business buyout phase, if the IAP chooses to do so, by retaining records of shares transferred during this phase.

6. Fishers who hold shares in share classes that will be subject to the Independent Allocation Panel process have little information upon which to decide whether to buy additional shares in the subsidised share trading market, as they are unaware of how those shares will be treated in the future share allocation process.

In response, the Government will consider additional assistance, if needed, once the IAP process concludes. This will help reduce uncertainty surrounding this part of the process.

7. On 26 July 2016, having considered concerns raised by industry that the time between commencement of the ITCALs and referral to the Total Allowable Fishing Committee was too short, the Minister announced an adjustment to the Program such that the ITCALs would not be referred to the Total Allowable Fishing Committee until 2024, to provide more certainty to industry. Mr McDonald, in his reported list of issues, identified a request by industry to be able to refer the ITCALs to the Committee earlier than 2024 under certain circumstances.

In response, the Government will allow an ITCAL to be reassessed sooner if:

- (a) there is a demonstrated sustainability issue that cannot be adequately addressed by any of the other management tools available under the *Fisheries Management Act 1994*. The onus here would be on the Government to demonstrate the sustainability concern.
- (b) requested by the industry on the basis of a demonstrated under-utilisation of a fisheries resource which the ITCAL is inappropriately constraining. The onus here would be on the industry to demonstrate the resource is under-utilised and that the ITCAL is unnecessarily constraining.

### **Response to matters where clarity is needed:**

Issues requiring clarification by managers were the second most common type of comment received by Mr MacDonald. This type of issue was usually specific to certain share classes and generally would not give rise to the sort of uncertainty that would change investment decisions.

These issues included matters of definition around how reporting changes will be managed, and questions about removal of current management tools such as boat licenses and net registrations. Operational issues around crewing and associated changes also generated widespread comment. Information on these issues will be provided to shareholders through FAQ statements and direct communication with specific shareholders.

Uncertainty around the contamination at Williamstown for Region 4 and Prawn Trawl fishers was also evident in questions to Mr MacDonald. In response, specific communication will occur with affected fishers.

Some fishers also sought clarity around the interaction of new linkage systems with older regulations, particularly size limits and closures. Unless specifically described, no other regulations will be changed. However, consultation on some of these regulations will continue to occur after the reform, where appropriate, with other stakeholders.

### **Response to other matters raised by fishers:**

The majority of comments and issues recorded by Neil MacDonald were outside the scope of the review. Most common were comments about the linkages that were announced rather than about their implementation. Conversely, there were concerns raised about the sustainability of the new arrangements, including around the potential social impact of increased numbers of traps. Analysis of shareholdings strongly indicates that any potential increase in effort associated with the new temporary arrangements is minor and unlikely to have any impact on sustainability.

Other comments, including from some cooperatives and their members noted concerns about the level of support by Government of the cooperatives and concerns about the potential for reduction in supply. These concerns were addressed through the assistance measures for fishing cooperatives already announced.

A large number of shares are already being traded, indicating that many businesses are already engaging with the reforms and are interested in maintaining a strong commercial fishing sector.

The NSW Government will continue to assess the findings of the MacDonald report as the reform progresses and is committed to working with the NSW commercial fishing industry to secure a viable future.