

Structural Adjustment Review Committee (SARC)

Chair's Summary

11th Meeting

Sydney Institute of Marine Science (SIMS)

Mosman/Chowder Bay

4-5 June 2014

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Introduction

The SARC met for two days in Sydney, 4-5 June 2014. This summary covers commentary from the SARC on the major issues raised and discussed at that meeting.

The Committee noted the completion of two weeks of port meetings between DPI and industry commencing 28th April 2014. It was reported that a total of fourteen ports were visited, at which 546 attendees or 520 individuals were recorded, as 26 of individuals attended multiple meetings. Of the 520 individuals, around 50% had one-one-one meetings with fisheries managers.

Approximately 750 written submissions have been received, not including a number of identical 'flyers' from the recreational sector on the matter of allowing netting in Lake Merimbula. Since the closing date for submissions was only five days from the SARC meeting, only a sample of submissions has been considered by the SARC. Some of these contain insightful and helpful suggestions and some do not support the Reform process.

It appears that the general feeling of industry is that too much is being attempted by the reform, too quickly and with insufficient funding. The SARC is very sensitive to the evident distress and concern that is present within fishing communities and wishes to assure industry that it will not be recommending the 'blanket' implementation of simplistic reform options. Rather, the SARC will work with the Department to look at options that are, as far as possible, tailored to the circumstances of fisheries and share classes. This has always been our intent.

A strong anti-reform lobby group was active at most meetings and in other forums, claiming that there is unanimous rejection of the entire reform process. This view does not accord with observations from others present at the forums, who reported that some fishers had alternate views, but were reluctant to air these owing to the atmosphere in the meeting. Further, views expressed to fisheries managers at one-on-one meetings indicated that some fishers acknowledged that reform is needed and certain options may be workable or at least worthy of further discussion. The section on consultation below expands on these issues.

Many in industry have been given to believe that the options outlined in the discussion papers will be applied without due regard for the submissions and other comments received during the period of consultation. This is incorrect. As stated on many occasions by the Minister, SARC and the Department, the Reform process, as recommended in the 2012 Independent Review, has sought to engage industry effectively. This engagement will continue.

At the next two meetings of the SARC, full consideration to all submissions concerning linkage options will be undertaken, prior to making any recommendations on linkage options.

Issue 11.1 Consultation

A common concern raised in submissions and port meetings is that there has been lack of consultation on the reform program and/or that the consultation process has been ineffective.

The SARC believes that the consultation process adopted to support the reform program has been extensive. It has included:

- working groups, for which industry were invited to nominate membership;
- invitations for industry to identify share linkage options;
- written communication to fishers from the DPI regarding details of the reform program and updates through newsletters and fact sheets;
- the appointment of an industry liaison position in the DPI to support the reform program;
- continuous engagement by fisheries managers with working group members, individual fishers and fishers' organisations;
- provision for industry input to the SARC through an observer position;
- SARC chair's summaries outlining the SARC's position on key issues and responding to concerns identified by industry;
- discussion papers on share linkage options;
- port meetings that allowed for public and one on one meetings with DPI to discuss the share linkage proposals; and
- public submissions on the share linkage proposals.

The SARC believes that the elements of the consultation process outlined above were appropriate given the timeframe for the reform and should have been very effective. It acknowledges that the departure of the first industry liaison officer for a critical period was unfortunate and did limit some of the industry consultation that would otherwise have occurred. However, the SARC does not believe that this significantly affected the process.

The reform process is complex. The DPI has made the very best attempt to explain the share linkage options as clearly as possible. However, the use of worst case scenarios by some industry participants, the extrapolation of particular share class options across entire fisheries and the presentation of the options presented for discussion as 'decisions', at meetings and in the media, has only served to confuse and increase the concerns of fishers who are struggling to understand how the reforms might affect them.

The SARC is disappointed that the most recent stages of the consultation process, involving discussion of the share linkage options at port meetings and through submissions, have been marred by the actions of a relatively small number of individuals. These individuals appear to have chosen to seek to derail the reform process through a deliberate and orchestrated campaign of misinformation and fear mongering. The SARC understands that most port meetings were used by the same vocal group to campaign for their position, which, at times, limited productive discussion of both the suggested and alternative linkage options. The SARC was

further advised that a number of individual fishers did not attend some of the meetings as they considered that the more extreme antagonists would prevent constructive discussion.

Of equal concern is the preparedness of some individuals to use intimidation and threatening behaviour in an attempt to undermine the reform program. The SARC is very concerned about the impact of personal attacks on those who chose to express their own opinions and are then subject to what can only be considered to be bullying tactics.

These actions have devalued the contribution of the discussions of share linkage options through port meetings and submissions.

The SARC will consider all submissions received in developing its recommendations on share linkages. However, given the complexity of the process and the recent issues with the consultation process, the SARC will be considering the need for additional consultation on some options and, if so, whether this is possible within the already tight reform timeline.

Issue 11.2 Peak body

The establishment of a properly structured and financially viable peak industry body was a key recommendation of the 2012 Independent Review. While the establishment of such a body is planned, the process has been delayed and little progress has been made to date. In the absence of a state-wide, industry endorsed peak body, the PFA has attempted to fill the role and has generally played an important, if not always popular with some of industry, part in seeking to comment and further develop reform options that are workable. In the view of the SARC, the Executive Officer of the PFA has done an outstanding job under very difficult conditions and has had to deal with considerable intimidation and at times unacceptable personal abuse, particularly through the social media. The SARC is aware that other industry and stakeholder organisations have formed or are in existence and it is to be hoped that they have provided constructive submissions into the process in line with the invitation by the Minister.

Some submissions have suggested that the reform process be placed on hold until a peak body is established and functional. The SARC agrees that the existence of strong peak body, recognised by Government and with appropriate regional representation, would have been helpful to the reform process. However, given the current nature and condition of the NSW fishing industry, we believe that waiting for the establishment of such an organisation would unduly delay or, indeed threaten, the Reform program.

The SARC encourages continued efforts to establish a peak body for the commercial fishing industry in NSW, but notes that the reform process should not be delayed by such efforts.

Issue 11.3 Share aggregation

Concern about the aggregation of shares into the hands of few either active operators or of external investors has been raised in some of the submissions considered. This concern revolves largely round the proposal to remove the

constraints on foreign ownership and the maximum 40% shareholding limit. The revival of 'owner operator' controls has also been suggested.

The SARC believes that the retention of such controls is generally not consistent with pursuit of economic efficiency, particularly given the small number of operators in some share classes. It also believes that the extent of the risk of major foreign investment in NSW fisheries is likely to be low. However, it acknowledges that in some share classes/fisheries there may be social and other objectives that are best pursued by retention of such controls. Further, the SARC believes that the controls on share aggregation in the short term may provide a level of security for fishers that will facilitate support for the reform program without compromising the overall objectives.

When making recommendations on share linkage options, the SARC will consider the issues regarding share aggregation in the submissions and address these on a fishery by fishery basis.

Issue 11.4 Latent effort

During the 2012 Independent Review, industry identified the existence of latent effort and the threat it posed to the value of fishing shares as a major concern that needed to be addressed. This was a key driver of the current reform program.

A common concern evident from some of the submissions considered is that the reform program is not focusing adequately on the removal of latent effort. Conversely, other submissions also claim that latent effort is not a major concern in some share classes.

The SARC wishes to reassure industry that removal of latent effort was and remains a primary focus of the reform program. The SARC also acknowledges that the extent to which latent effort is a problem does vary across share classes. The SARC is considering ways in which the exit grant might be better targeted toward those fishing businesses holding predominantly latent effort. At the same time the SARC recognises the need for the exit grant to provide an opportunity for those active fishers who are seeking to leave the industry, to do so.

The SARC notes that the exit grant scheme is a voluntary one. The SARC is committed to ensuring that the voluntary exit grant is designed to deliver the right incentives to those who may want to sell their shares and to maximise the long-term return to the industry and the community on the funds expended under the scheme. Ultimately, however, under a voluntary exit grant scheme it is not possible to predict how individuals will respond.

Issue 11.5 Sustainability

The driver for the reform program has been the long-term economic viability of NSW fisheries and it is not the objective of the reform to address any immediate sustainability concerns. However, it is widely acknowledged that there is a connection between economic viability and sustainability of fisheries. Moves to strengthen the security of fishing rights held by NSW fishers through the linkage of existing shares to catch or effort will provide a platform from which fishers can have more control over their economic efficiency, will engender a stronger sense of

stewardship in the resource and will also provide a more robust mechanism to respond to sustainability issues when they arise.

The SARC notes that many submissions on the linkage options have acknowledged that existing data provided to the NSW Government through logbook returns have understated, for a variety of reasons (e.g. multiple day trips reported as a single day), the actual numbers of days fished. The SARC has also heard of illegal use of fishing gear (e.g. use of more gear than permitted).

DPI's assessment of most NSW fish stocks are based on catch per unit effort (CPUE) data. It is on the basis of these data that DPI considers that there are no sustainability concerns for most NSW fish stocks. As fishers would well understand, if the effort reported is understated, then the CPUE figures are inflated. The data on which the status of stocks are assessed may, therefore, be providing a false sense of security to managers and fishers alike.

Fishers should be aware that the setting of total allowable levels of catch or effort in the longer term will need to take such misreporting into account.

Issue 11.6 Linkage

Some of the few submissions considered suggested options which do not address one of the key Government policy requirements of the reform, that is, the direct linkage of the amount of shares held to the amount of effort or catch taken. Contrary to many of the rumours that are circulating, the manner in which this linkage will occur will vary from fishery to fishery and the mechanism and time frame to achieve linkage will also vary. It is clearly not a sensible strategy to immediately introduce an allocation of effort or time units to shares in a highly distorted share class in a way that will drive the majority of active fishers from the industry. Nor is a strategy that will result in inadequate change that does not strengthen property rights and help restore flexibility and profitability to a fishery.

An earlier review of fisheries management in NSW in 2007 and the 2009 Pyrmont Pact both identified share linkage as a way to improve the viability of the industry and enable structural adjustment to occur. The 2012 Independent Review confirmed this view and reiterated that share linkage would ensure that shares become stronger, more meaningful and clearly defined property rights rather than mere competitive access to a resource irrespective of the amount of shares held (the current situation).

Share linkage is, and will remain, a key objective of the Reform. Any option put forward which seeks to achieve linkage will be considered by the SARC on a share class by share class basis.

Issue 11.7 Reducing the financial burden

The SARC is very aware that there is potential for a significant financial burden on shareholders in some share classes who may have to obtain large numbers of shares to remain viable. When assessing the share linkage options and making recommendations to the Minister, the potential financial impact on shareholders in highly distorted fisheries will be a critical component of the evaluation process, as

will consideration of workable mechanisms available within the Reform program to alleviate significant financial impacts, wherever possible.

Some submissions raised the possibility of increasing ITCALs to higher levels than those proposed in the Options papers as a way to minimise financial impacts on active fishers. The SARC notes that the ITCALs provided in the Options papers released for public comment reflected a range of increases from initial levels, to suit as best as possible the circumstances of individual share classes, as identified by the working groups. ITCALs have now been set at the maximum catch level over the last 10-15 years unless there were sustainability concerns or other reasons e.g. in the case of the Estuary General fishery where the fishing area has reduced substantially due to recreational fishing havens. The SARC believes that there is very limited scope for the use of higher ITCALs than those currently proposed.

Issue 11.8 Potential Closure of Cooperatives

Some submissions have raised concerns that the Reform Program will lead to the closure of one or more fishing cooperatives due to members exiting the industry, also affecting the viability of remaining fishing businesses which rely on coop-provided services. As reported in the last SARC Chairs Summary #2 (Issue 7.3), a study was commissioned by DPI to assess the potential impact of the Reform Program on the viability of the cooperatives. The report found that membership has been declining in most of the 15 cooperatives with the main causes attributed to age and market conditions. Further, the study found that this had led to many family fishing businesses not being handed on to younger generations due to the perceived lack of security and profitability compared to other industries. In this study, some cooperatives also suggested that older generations have actively discouraged younger generations from entering the industry.

The SARC reiterates previous advice that the findings of the study will not influence the SARC's recommendations on the most appropriate share linkages for NSW fisheries. (SARC Chairs Summary #2 Issue 7.3)

The SARC **recommends** that DPI make this report publicly available as soon as possible and notes that according to the report, the worsening financial performance of many cooperatives is affected by the declining profitability of the industry. Improving the profitability of the industry is one of the key objectives of the Reform program.

Issue 11.9 Leasing of catch or effort quota

Submissions have been both supportive of, and opposed to, leasing. The SARC has previously considered the short and long-term role that leasing (transfer) of catch/effort quota has to play in structural adjustment and the economic efficiency of NSW fisheries (see issue 7.11 Chairs Summary#2 January 2014). The SARC recommended that unless there are clear reasons to the contrary, in the short term, potentially for a period of two years, leasing of catch (quota) or effort units should not be permitted, but in the longer term that leasing should be an integral component of the management of NSW fisheries. In making its recommendations on share linkage, the SARC will consider the timeframe for permitting leasing on a fishery-by-fishery basis.

Issue 11.10 Cost recovery

Industry remains, understandably, concerned at the lack of detail on ongoing cost structures, given the reform process and signals by Government of an impending review of the current cost recovery framework. As reported in the Chair's Summary of 16-17 September 2013 (Issue 5.5), SARC has requested consideration of a moratorium on management costs for a period of three years, to provide some level of certainty concerning costs in the short term.

Without a signal to shareholders that there will be a meaningful cost of holding shares, inactive fishing businesses, or businesses with inactive or very low activity share classes, may be more likely retain shares in the hope of future gain.

The SARC **recommends** that the following cost recovery principle be agreed within Government and notified to industry as soon as possible i.e. *that a base cost covering a proportion of the fixed cost of fisheries management within a share class or group of share classes, be levied equally across all shareholders irrespective of the level of shareholdings*. A variable cost, proportional to shareholding levels will be applied on top of the base charge.

Issue 11.11 Return of latent effort

Some concern was expressed that individuals and or investors would be able to take advantage of the exit grant scheme to sell shares and obtain the associated benefit, only to buy back into the fishery as a result of the removal of fishing businesses. While this is possible, it will unlikely to occur because Fishing Businesses and the Fishing Business Transfer Rules will not be removed until share linkages are in place, and their removal will also depend on the strength of the linkage in each share class (Issue 5.16 Chairs Summary 16-17 September 2013). Further, rights are likely to have a higher value after the subsidy of the exit grant has been applied, making it more expensive to 'buy back in'.

Issue 11.12 Reform timeline

The SARC is continuing to work towards providing advice to the Department/Minister by 1st August as per the revised timeline for the reform process provided by the Minister. The SARC will meet twice more in face-to-face meetings, in addition to substantial inter-sessional work and analysis. The Department is providing support services in terms of processing and analysing submissions. The Department is scheduled to supply its recommendations for linkage to the SARC by 15 July and the SARC will meet for the full week of the 28 July - 1st August. The SARC acknowledges that this timeline is very tight.
