

Regional NSW

Audit (Independently undertaken by OCM) of the NSW Recreational Fishing Trusts

March 2024

Contents

1	Executive Summary	3
2	Detailed Findings	11
	Appendix A: Terms of Reference	24
	Appendix B: Overview of the Recreational Fishing Trust	26
	Appendix C: Inherent Limitations & Restrictions on Use	30

1 Executive Summary

1.1 Introduction

O'Connor Marsden and Associates (OCM) have been independently engaged to conduct an audit of the NSW Recreational Fishing Trust (RFT). This Terms of Reference describes the objective, scope, timetable, and other information required to manage the audit. The full scope of the audit can be found at [Appendix A](#).

The audit covered the period from 1 July 2022 to 30 June 2023.

1.2 Background & Overview

Creation of two monetary funds

Two Recreational Fishing Trusts were established under the Fisheries Management Act 1994 (the Act) namely the Recreational Fishing (Freshwater) Trust Fund the (RFFTF) and the Recreational Fishing (Saltwater) Trust Fund (RFSTF). Both Trust funds aim to boost recreational fishing opportunities and benefits for the NSW community.

The Trust Funds were established in 2001, at the same time as the introduction of the NSW Recreational Fishing Licence Fee. The fee was established to provide funds for improving recreational fishing in NSW with all monies raised from recreational fishing fees being placed into the Trust funds and subsequently acquitted on projects aimed at improving recreational fishing in NSW.

A full description of the purposes for fishing fees are defined in Section 34AA of the Act as well as the Minister's powers are detailed in [Appendix B](#).

Advisory Council and Expenditure Committees

It is essential the RFT is operating effectively and with appropriate governance and controls in place. To complement existing oversight and reporting, it was recommended by the Minister for Agriculture that an independent audit be undertaken to review the operating effectiveness of controls and governance processes associated with the management of the RFT.

The Recreational Fishing NSW Advisory Council (RFNSW) was established in 2016 to provide advice to the Minister for Agriculture on key recreational fishing issues in NSW. The Advisory Council is based on a representative model, ensuring the views of regional fishers from across the state are communicated. RFNSW includes eight regional members, two members with expertise in spearfishing and charter boat fishing, and other representatives that significantly benefit the function of the Advisory Council. The Advisory Council meets regularly and provides outcomes of its meetings on the NSW Department of Primary Industries website.

The Trust Funds are overseen by two committees made up of recreational fishers - one for saltwater and one for freshwater. These committees make recommendations on funding priorities. The RFT supports the delivery of a wide range of projects aimed at boosting recreational fishing opportunities in NSW.

The current expenditure committees, namely the Recreational Fishing Saltwater Trust Expenditure Committee (RFSTEC) and the Recreational Fishing Freshwater Trust Expenditure Committee (RFFTEC), were placed under the Recreational Fishing NSW Advisory Council (RFNSW) in 2016. This was part of the (then) NSW Government's response to the Independent Review of the Recreational Fishing Trusts, which recommended that RFNSW should have oversight of the Trusts and their expenditure.

The role of RFNSW is to provide advice to the Minister for Agriculture on key recreational fishing issues in NSW, including the funding priorities and projects for the Trusts. RFNSW reviews the

funding recommendations from RFSTEC and RFFTEC before they are submitted to the Minister for approval.

Income and expenditure figures for the past three years are as follows:

	Revenue (fishing fee licenses)	Expenditure
FY20-21	\$17.7m	\$15.9m
FY21-22	\$15.7m	\$15.8m
FY22-23	\$14.7m	\$23.8m

1. Source: The Recreational Fishing Trust Annual Report 2022-23.

Funding Rounds

There are no fixed dates for each funding round. The Minister announces the opening of each funding round via media release and the associated closing date for submission of funding applications.

Further advertising of the rounds is undertaken by DPI, including social media, fishing club email and inclusion in the DPI recreational fishing newsletter (over 500,000 recipients). DPI has published RFT Funding Guidelines on its website and the NSW Grants and Funding webpage. These include eligibility and assessment criteria. Application forms are provided separately for small projects under \$10,000 and large projects over \$10,000.

Applications are allocated to various “platforms” for consideration. These platforms express the priorities of the Advisory Council. These platforms are:

- Priority areas for funding are:
 - Fisheries enhancement (e.g. fish aggregating devices, artificial reefs, and fish stocking)
 - Fishing access and facilities (e.g. fishing platforms, cleaning tables, safety infrastructure and other facilities, and protecting fishing access)
 - Aquatic habitat rehabilitation (e.g. habitat action grants to improve fish habitat)
 - Research on recreational fishing (e.g. fishing surveys, stock assessment, and angler catch projects)
 - Education (e.g. fishing workshops, FishCare Volunteers, school education, fishing advice, and increasing participation in recreational fishing)
 - Enforcement of fishing rules (Fisheries officers)
 - Trust management and administration, including program delivery and the licence payment system and associated fees.

A detailed overview of the RFT is found at [Appendix B](#).

1.3 Positive Findings

The following positive findings were identified.

Positive Findings

- Policies, procedures, published grant guidelines, and wide publication of the grants rounds (including a mail-out to all persons on the Fisheries database) have been established.

Positive Findings

- All members interviewed were appointed in line with the NSW Public Service Commission Appointment Standards. All interviewed members had been inducted into their roles.
- DPI has a code of conduct that applies to advisory committees and boards. Interviewed members of RFNSW and the Expenditure Committees were aware of the code as a part of their induction.
- DPI proactively publishes recommendations and decisions relating to Recreational Fishing Trust grants in multiple locations. The level of transparency over these decisions, and the amount approved is high.
- The grants awarded are consistent with what can be funded under the Fisheries Management Act.
- Members of the Advisory Council and the Expenditure Committees have been appointed in line with the NSW Government requirements and are provided with information on their positions and the ethical requirements that surround their appointments.
- The RFT Annual Report provides a comprehensive summary of the Trust.
- Conflicts of interests for non-DPI grants are transparently managed.
- Summaries of meetings are pro-actively published.
- Grant opportunities are widely and openly promoted to the public.
- Members of the Expenditure Committees objectively consider every application.
- Briefs to the Minister accurately reflect the recommendations of the Expenditure Committees and RFNSW.
- Recommendations made by the Expenditure Committees to RFNSW who then make recommendations to the Minister are published on the Departmental website. The Minister's decisions are also widely and proactively publicised on the NSW Grants Portal, the DPI website and in the Annual Reports for the trusts.
- Sample testing of the licence fee management process; namely receipting, banking, and accounting of the license fees did not indicate any exceptions.

1.4 Summary of Findings

The audit identified the following areas that require improvement/management attention. Seven medium rated issues have been noted which have been summarised in the table below with further details outlined in [Section 2 - Detailed Audit findings](#).

Reference to Detailed Finding	Audit Objective	Finding Summary	Rating as per table under 1.6 below
2.1	Are there appropriate documentation, processes, and structures to assess funding applications, and are these applied appropriately, including as defined in the Recreational Fishing Trust guidelines. These include funding applications, meeting process and record keeping, committee structure and terms of reference and the assessment process.	The Grants assessment and approval process for the RFT largely reflects the NSW Government Grants Administration Guide; however, a number of gaps were identified whereby improvements can be made to better align grant assessment processes with these guidelines.	Medium
2.2		Benchmarking of terms of reference and processes for both RFNSW and the Expenditure Committees against the NSW Boards and Committees Guidelines have revealed gaps which require to be addressed.	Medium
2.3	Does RTF expenditure align with the priorities as per established investment plans and recreational fisher survey feedback of recreational fishers across NSW.	There does not appear to be any other regular or formalised processes for consultation between RFNSW and the Expenditure Committees regarding priorities for the trusts.	Medium
2.4	Are there appropriate (as per NSW Government Boards and Committees Guidelines) mechanisms in place to manage any conflicts of interest involving assessment of funding applications, development of funding recommendations and associated approvals.	Processes for managing and recording conflicts of interests, the separation of duties and involvement of DPI staff in internal grant applications are inadequate.	Medium

Reference to Detailed Finding	Audit Objective	Finding Summary	Rating as per table under 1.6 below
2.5	Are there appropriate documentation, processes, and structures to assess funding applications, and are these applied appropriately, including as defined in the Recreational Fishing Trust guidelines. These include funding applications, meeting process and record keeping, committee structure and terms of reference and the assessment process.	There are inadequate systems and guidelines in place to provide transparency and accountability on grant progress and outcomes.	Medium
2.6	Are there appropriate controls and secure payment and reconciliation systems (including receipting, banking, and debt management) in place to ensure that all amounts that should be paid into the Trust are paid accordingly.	Controls over reconciliation of licence sales by the agents need enhancement. Controls over key governance documentation also require improvement.	Medium
2.7	Consider whether the NSW Department of Primary Industries (DPI) calculation of the operational overhead costing rate and the salary on-costs rate for DPI Recreational Fishing Trust project applications are reasonable or require further review and are appropriately administered.	There is no framework/guidance documentation to administer the operational overhead costing rate for DPI Recreational Fishing Trust project applications. The operational overhead costing rate policy and the associated rate needs review.	Medium

1.5 Audit Rating

Based on the scope of our engagement, NSW RFT's performance relevant to this review is outlined below. This rating is based on observations made during the engagement and in some areas these observations may have been limited by the scope of the work performed. The rating is intended to assist NSW RFT's senior management and the Audit, Risk & Improvement Committee to focus on areas of greatest concern and does not form part of our opinion. The rating is from A to E with specific ratings denoting the following:

		Rationale	Rating
A	Minimal opportunities for improvement identified.	< two Low rated issues	
B	A small number of minor control weaknesses / opportunities for improvement identified.	> two Low issues but no Medium High or Extreme rated issues	
C	Several control weaknesses of concern identified.	One to three Medium and > than one High and no Extreme rated issues	
D	Significant control weaknesses found in a number of areas.	> Four Medium and/or more no more than one High rated issue.	✓
E	Poorly controlled. Pervasive, significant weaknesses in controls identified.	Two or more high rated issues and/or one or more extreme issue.	

Further, each issue within the report has been assigned a suggested priority of action as follows:

Priority Ranking	Explanation	No. of issues raised
Extreme	A significant weakness which requires <i>urgent attention</i> at senior levels to determine how to address and/or reduce the risk. Regular monitoring of progress by senior management required.	
High	A significant weakness which requires <i>urgent attention</i> at senior levels to determine how to address and/or reduce the risk. Regular monitoring of progress by senior management required.	
Medium	Management responsibility to be specified, monitor and review response action, as necessary.	7
Low	A weakness which does not seriously detract from the system of internal control and/or operational efficiency which can be managed through existing processes and procedures,	

1.6 Conclusion

Based on the work performed, our conclusion against the audit objects are as follows:

1. Accountability:

- There are appropriate documentation, processes, and structures to assess funding applications, and these are applied appropriately, including as defined in the Recreational Fishing Trust guidelines. These include funding applications, meeting process and record keeping, committee structure and terms of reference and the assessment process. However, improvements can be made to better align these with the NSW Grant Administration Guidelines. These include:
 - There is no evidence that an eligibility cull is undertaken or that the *DPI Trust Assessment Form* is utilised in the assessment process.
 - There has been no risk assessment of the grant process and any consideration for need for probity advice.
- There are no processes to systematically review funding priorities or for RFNSW and the Expenditure Committees to discuss those priorities.
- Funds are disbursed from the Trust Funds under authorisation of the Minister, as prescribed by the Act.
- There are appropriate controls and secure payment and reconciliation systems (including receipting, banking, and debt management) in place to ensure that all amounts that should be paid into the Trust are paid accordingly. However certain enhancements have been suggested in the controls over reconciliation of licence sales by the agents.

2. Transparency:

- The projects which were approved in 2022/23 are consistent with what can be approved and funded under the Act.
- RTF expenditure aligns with the priorities as per established investment plans and recreational fisher survey feedback of recreational fishers across NSW.
- There are appropriate mechanisms in place to manage any conflicts of interest involving assessment of funding applications, development of funding recommendations and associated approvals for non-DPI projects. However, processes to manage any conflicts of interest and separation of duties involving assessment of funding applications, development of funding recommendations and associated approvals for DPI projects needs to be improved.
- There are processes in place to manage payment of funds to grant applicants, including being contingent upon meeting funding deed obligations and/or completion of project milestones. However, there are no processes in place to report on individual grant outcomes or progress.

3. Fairness:

- There are adequate and appropriate mechanisms to advise potential applicants about opportunities to apply for funding to promote broad engagement in the Recreational Fishing Trust program.
- NSW Department of Primary Industries (DPI) calculation of the operational overhead costing rate and the salary on-costs rate for DPI Recreational Fishing Trust project applications are appropriately administered. However the relevant policy and rate require a review to ensure they are relevant and adequately reflect existing operational landscape.
- There are consistent assessment procedures for funding applications by the Trust Expenditure Committees, but it is not clear that these are consistently applied. Improvements have been made to better align processes with the NSW Grants Administration Guidelines.

4. Alignment with Government Guidelines:

The RFT expenditure committees and the Recreational Fishing NSW Advisory Council:

- Have been appointed in line with the relevant guidelines.
- Are not consistent with the tenure guidelines of the NSW Boards and Committees Guidelines and it is recommended that term limits be introduced.
- Would benefit from increased skill representation in the areas of research and construction.
- Are male-dominated and would benefit from greater diversity.
- Should establish a code of conduct for the Expenditure Committees.
- The codes of conduct should address the issue of lobbying.
- Should conduct a risk assessment of grant processes to establish if probity advice is required.

2 Detailed Findings

2.1 Grant Assessment Process

Finding Category	Internal Control / Process Improvement	Finding Rating	Medium
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Observation

The Grants assessment and approval process for the RFT largely reflects the NSW Government Grant Administration Guidelines; however, a number of gaps were identified whereby improvements can be made to better align grant assessment processes with these guidelines.

The processes for RFT Grants were assessed to determine whether there are appropriate documentation, processes, and structures to assess funding applications, and if they are being applied appropriately.

In September 2022, the NSW Grant Administration Guidelines (the Guide) were released. The NSW Grant Administration guidelines are issued under a Premier's Memorandum. Premier's Memoranda are binding on Ministers and agencies and compliance is required. However, as the majority of grants selected for review as part of this audit commenced before these guidelines had been published, the guidelines have been used as a reference point to better practice rather than a compliance requirement. The following 13 elements of the Guide were used when assessing the RFT process:

1. Governance Policies and Procedures.
2. Grant Guidelines.
3. People assessing grants have the right experience and skills.
4. There is an appropriate level of record keeping over the grants process.
5. Reasons for recommending or rejecting grants are documented.
6. Decisions are impartial.
7. Decisions are published.
8. Processes to ensure ethical conduct are in place including processes to deal with Conflicts of Interests and fraud and corruption controls.
9. There are processes in place for assessing and managing risk over the program.
10. Eligibility and assessment criteria are in place and used in the assessment of grants.
11. Grant opportunities are published.
12. Decision makers are properly and fully briefed.
13. Announcements are made on the outcomes of grant applications.

Better Practice Requirements

A sample of twelve grant applications were independently selected by OCM, DPI also suggested the inclusion of one grant application which had completed the grant cycle.

To ensure a full understanding of the processes being applied to all grant applications, meetings were held with members RFNSW, the Expenditure Committees and relevant DPI employees.

Whilst it was found the overall assessment of grants was professionally managed and in keeping with the Guide, the following two elements were observed to not being followed:

1. Processes were not in place for assessing and managing risk over the program e.g. DPI had not undertaken any risk assessments.

- Processes to ensure ethical conduct were not in place specifically in relation to dealing with fraud and corruption controls. Interviews with both the Expenditure Committee members and RFNSW staff highlighted a poor understanding of the potential for fraud and corruption in relation to the program.

In addition, it was noted, that whilst the other elements were generally being followed, the approach in the evaluation process was not consistently applied. The following three concerns were noted:

- Eligibility and assessment criteria for grants are a part of the policy framework for the RFTs however there was no evidence that they are applied when the expenditure committees are considering applications.
- All members of the expenditure committees stated that the only criterion applied to applications was that it benefitted recreational fishing.
- Processes relating to conflicts of interests are managed appropriately for non-DPI grant applicants in the grant assessment process, however there is a lack of documentation to demonstrate the same standards have been applied to DPI applications. (This is discussed further in Section 2.4 of the Report).

Expertise in expenditure committees

The Expenditure Committees assess a wide variety of applications, many of which relate to research or construction of a high value. Whilst it is noted some research expertise can be found in RFNSW; such expertise is not found in either of the Expenditure Committees. RFNSW recognised this issue in the August 2022 meeting stating ... *'more research expertise was needed to assess those applications and that a small panel of peer reviewers should be established to provide advice on the quality of the research applications for funding'*. At the time of this audit, more than a year later, this has still not been implemented.

Similarly, there is limited expertise on construction projects. DPI has some construction standards in relation to fishing infrastructure, but there are also projects for which standards do not exist.

It is noted that in the sample reviewed, some external construction projects had not commenced up to a year after funding had been approved due to applicant project delays.

Probity

The overall grant process documentation is silent on Probity requirements. There are no guidelines as to if and/or when probity should be introduced in the process. Further, the current guidelines do not include a governance framework which could be used when assessing grants.

¹The table below provides some guidance as to how such a framework could be developed and implemented.

Proportionality of governance arrangements

Lower governance requirements		Higher governance requirements	
1	2	3	4
<ul style="list-style-type: none"> Non – competitive¹ Eligibility based award Objective criteria Small value Rebate Non-contentious and low reputational risk 	<ul style="list-style-type: none"> Competitive Rebate Low reputational risk Requires limited judgement or discretion in assessment but criteria and scoring can be well defined Expected to be score ranking only (little likelihood of partial funding, funding on the basis of geography or equity, clear alignment with objectives) Moderate value Acceptable residual program, governance and grantee risk identified Skills well within Branch capability 	<ul style="list-style-type: none"> Competitive Moderate value upfront payment component Moderate reputational risk Requires some judgement or discretion in assessment, criteria and scoring have scope for moderate discretion May require decisions around partial funding, geographic and equity spread, alignment with objectives and policy may need to be considered, Moderate value Acceptable residual program, governance and grantee risk identified Limited program objectives/impacts 	<ul style="list-style-type: none"> Competitive Upfront payment High profile – High reputational risk Liable to external review/challenge High discretion in many aspects of assessment and recommendation formulation High value Significant residual program, governance and grantee risk identified Limits of Branch capability and capacity Whole of government objectives/impacts Liable to inappropriate attempts to influence assessment and recommendations (lobbying, ministerial intervention, cross agency interests etc)

¹ Source: OCM guides for grant arrangements.

The Guide outlines where probity advice should be sought namely, *“for all grant opportunities that are complex, high-risk or high value, to support the design, application, assessment and decision-making phases”*.

Timeframes

Currently timeframes for grant application rounds have not been set. Defining timeframes would increase the transparency of the program.

Governance

Upon review of the outcomes for RFNSW, these were found to be lacking in detail, for example the minutes only state that they endorsed recommendations of the Expenditure Committees rather than outlining the actual considerations made.

Implications

Failure to ensure good governance in the grant assessment process may potentially increase the risk of:

- poor quality and inconsistent decisions, which could lead to unfair or inappropriate allocation of grants, wastage of resources, or legal challenges.
- reduced accountability and transparency, which could undermine the trust and confidence of the public, the government, and the grant applicants and recipients.
- increased risk of fraud, corruption, or misconduct, which could damage the reputation and integrity of the organisation and expose it to sanctions or penalties.
- missed opportunities to achieve the intended outcomes and objectives of the grant program, which could affect the performance and impact of the organisation and its partners.

Recommendations

1. Management should update the Grant Eligibility Criteria to reflect:
 - a) all types of projects that can be funded, and
 - b) they fall within the requirements of the Fisheries Management Act.
2. A Grants Eligibility Checklist should be developed. Once complete, it should be attached to every grant application which is forwarded to the Expenditure Committee/s. Ineligible grant applications should be excluded from consideration but reported to the Expenditure Committee for their endorsement.
3. An assessment criterion for each grant platform should be developed. Once completed, a formalised process, to demonstrate the assessment has been carried out against these guidelines, should be introduced e.g. applications could be scored and ranked which would demonstrate additional transparency.
4. A process should be established whereby the Expenditure Committees are advised of all applicants who have had previous funding and the outcome and/or progress of such funding to help make an informed decision.
5. A Risk Assessment should be undertaken on the grants program as required by the NSW Government Grant Administration Guidelines. Consistent with those guidelines a probity advisor should be engaged *“for all grant opportunities that are complex, high-risk or high value, to support the design, application, assessment and decision-making phases”* if the assessment reaches this threshold.
6. A Fraud and Corruption Risk Assessment should be undertaken, and Fraud and Corruption Plan should be developed for the grants program arising from that assessment.

7. Expertise should be sought to provide advice to the Expenditure Committees and RFNSW on applications for research. Similar expertise should be sought on high-cost construction projects where DPI does not have established standards. Where these projects are not occurring within DPI, such expertise should be drawn from the Department. Where the DPI is the applicant, such advice should be from outside of the Department.
8. Set times for annual grants rounds should be established to maximise transparency for the process and to allow interested parties to adequately plan for the funding rounds.
9. RFNSW should provide a greater degree of transparency in its minutes as to its consideration of Expenditure Committee recommendations. This could be as simple as referencing the Expenditure Committee Meeting on which it is basing its recommendations.
10. The Recreational Fishing Trusts Funding Guidelines should be revised to reflect the changes to processes that arise from the audit recommendations.

2.2 Board Composition and Processes

Finding Category	Internal Control / Process Improvement	Finding Rating	Medium
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Observation

Benchmarking of terms of reference and processes for both RFNSW and the Expenditure Committees against the NSW Boards and Committees Guidelines have revealed gaps which require to be addressed.

In undertaking this benchmarking, the following was considered:

- | | |
|---|--------------------------------------|
| 1. Charters. | 7. Processes for appointment. |
| 2. Reports. | 8. Term expiry and re-appointment. |
| 3. Business Planning. | 9. Member induction and development. |
| 4. Internal audit and risk management arrangements. | 10. Code of conduct. |
| 5. Open information. | 11. Lobbying. |
| 6. Roles and Responsibilities for the chairs and members. | 12. Ethical decision making. |
| | 13. Conflicts of interest. |
| | 14. Gift and benefits. |

The terms of reference for the Expenditure Committees do not meet the requirements of the NSW Boards and Committees Guidelines.

Whilst the RFNSW charter (2016) covers most of the requirements as set out in the NSW Boards and Committees Guidelines, the following three gaps were noted:

1. **Term limits** - The NSW Boards and Committees Guidelines state, members should not serve more than two consecutive terms on a board or committee, unless otherwise stipulated in legislation or where such limitation would be contrary to the public interest.

There are no term limits for members of RFNSW or the Expenditure Committees. Three Expenditure Committee members interviewed had held their positions for over 20 years. It was also noted that the composition of the Advisory Council and Expenditure Committees are male dominated. Board refreshment would provide an opportunity to gain greater diversity, different skills and ideas.

Current practice is for all members of both the Advisory Council and Expenditure Committees to serve the same terms, as such currently all terms expire at the same time.

2. **Risk Management** – Risk assessments are not being conducted on the RFT grant program. This has been addressed in 2.1 above.
3. **Lobbying** - The code of conduct does not address the issue of lobbying. Interviews have indicated that attempts to lobby have occurred, that said there is no evidence that lobbying has influenced decisions or outcomes. The Expenditure Committees have basic terms of reference that do not meet the standards of the Boards and Committees Guidelines. The member's handbook covers various aspects of ethical conduct and expected behaviours; however this handbook could be more comprehensive.

4. Conflicts of Interest

The Departmental Secretaries' appointed member, who is a DPI employee, is a full voting member of all three Advisory Council and Expenditure Committees. As DPI is the recipient of significant funds from the RFT, this appointment holder could be perceived as having a conflict of interest.

The position of the Recreational Fishing Trust should be aligned with the practice of the Commercial Fishing NSW Advisory Council (CommFish NSW) in that DPI are a non-voting member.

It was noted, during the period of the audit, the DPI representative was unable to attend any of the Expenditure Committees and did not participate in any grant assessments.

Implications

Failure to following good governance principals could potentially increase the risk of:

- A loss of diversity, innovation, and renewal in the board's composition and decision making due to a lack of term limits for the Council and Expenditure Committees.
- Compromise to the independence, objectivity, and integrity of the board's oversight and accountability functions.
- A lack of clarity and consistency of the Expenditure Committees roles, responsibilities, and processes.
- Increased risk of unethical conduct due to the influence of lobbyists.

Recommendations

11. The Charter of RFNSW should be updated to include the following:

1. Member terms should be limited to two unless there is a compelling reason for them to be extended.
2. The term expiration of members should be staggered so that a maximum of 50% of the positions become vacant at any one time to ensure continuity of experience and knowledge.

12. The Code of Conduct should be updated to cover the issue of lobbying.

13. The positions of the DPI representative should be changed from a voting member to a non-voting member on all the three committees.

14. Develop a new charter for both of the Expenditure Committees. The Members Handbook should be the basis of the charter, but membership conditions should reflect recommendations 11-13.

2.3 Alignment of Priorities

Finding Category	Internal Control / Process Improvement	Finding Rating	Medium
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Observation

Whilst RFNSW has determined a draft list of priorities to be submitted to the Minister and regular surveys of recreational fishers have been conducted to inform priorities, it is not apparent that there are regular or formalised processes for consultation between RFNSW and the Expenditure Committees regarding priorities for the trusts.

Under Section 234 (4) of the Fisheries Management Act, the Minister must consult the Council on the allocation of recreational fishing fees to that Fund, as well as policies and priorities for expenditure from that Fund. To assist RFNSW in determining those priorities, DPI has conducted surveys with recreational fishers in 2008, 2013, 2017 and 2022.

The comprehensive surveys were run by an external research consultant run, and the results presented to RFNSW and the Expenditure Committees.

In the meeting of April 2023, RFNSW agreed a list of priorities which has informed a five-year action plan. This action plan is still in draft form for presentation to the Minister. Priority areas are published on the RFT's website.

From interviews held with members of the Expenditure Committees, it was ascertained there have been no discussion between RFNSW and the Expenditure Committees on these priorities. Members of the Expenditure Committee were only able to articulate in general terms that the priorities were *'benefits to recreational fishing.'*

Implications

Recommendations from the Expenditure Committees may not align with the priorities established by RFNSW and funding recommendations may not reflect those priority areas.

Recommendations

15. If/when new priorities are agreed to by the Minister, the current funding 'platforms' against which funding is granted should be updated to reflect the new priorities.
16. Develop a joint, annual process for RFNSW and the Expenditure Committees to review and agree on priorities for funding. Funding rounds should consider the priority areas when making recommendations on grant applications.

2.4 Conflicts of Interests and Separation of Duties

Finding Category	Internal Control	Finding Rating	Medium
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Observation

Processes for managing and recording conflicts of interests, the separation of duties and involvement of DPI staff in internal grant applications are inadequate.

Over the 12-month audit period, DPI applications accounted for 33% of approved grants and 62% of the funds allocated from the trust.

As detailed earlier, 13 grants were selected and tested. In addition, an examination of the minutes of the Expenditure Committees where funding was approved was also undertaken. A number of good governance practices were considered absent or inadequate, specifically a conflict of interest or inadequate segregation of duties may have perceived to exist. Examples include:

1. There is no record in the meeting minutes of DPI representatives declaring any conflicts of interests or leaving the meeting when their applications are being processed by the Advisory Council and Expenditure Committees.
2. DPI staff are both grant applicants, managers of projects funded from the Trusts and administrators of the grant scheme.
3. Staff, whose areas receive recommendations for funding are also signing briefs to the Minister recommending the projects.

In Section 2.2 of this report, it is noted the DPI Representative appointed by the Department Secretary, is a full voting member of both the Advisory Council and the Expenditure Committees. It is also noted that the DPI representative on the Expenditure Committees was not present at any meeting that recommended funding however, as they were present at one of the two Advisory Council meetings that recommended funding to the Minister, a conflict-of-interest declaration should have been made.

The DPI representatives who were at the meetings but are not members of the Expenditure Committees state that they were asked to leave the room whilst the applications were discussed however, this has not been recorded in the minutes.

One member of the Expenditure Committees stated they believed no DPI staff should be present when their applications are being discussed.

In our sample, we noted DPI staff, who are also responsible for administering the grants scheme, were also grant applicants and had received funding for projects in their areas. An assessment of the merits of the applications was not undertaken as part of this audit (this was undertaken by the Expenditure Committees). Notwithstanding, it is not appropriate that the area of DPI responsible for the administration of the grant scheme, is also a recipient without any formal external oversight or reporting.

Implications

- Inadequate disclosure of and documentation of conflicts of interests and how they are handled may reduce transparency and accountability for the Trust's activities. This may undermine public and Government confidence in the management of the scheme.

- The Department may come under increased criticism for the allocation of funds for the trusts, despite the merits of its applications and projects due to a perception of undue influence resulting in damage to the reputation and integrity of the organisation.
- Lack of separation of duties in the grant administration process results in one unit effectively holding responsibility for advertising and reviewing grant applications.

Recommendations

17. Clear guidelines should be developed which outlines the process to be undertaken when faced with either a conflict of interest or segregation duties issue at any stage of the Grant process (grant applications, assessment, management, reporting and reconciliation).

This process should clearly articulate in the rules with specific regard to DPI staff not being able to participate in Expenditure Committee or Advisory Council discussions on applications received from the Department.

2.5 Inadequate Transparency in Relation to Grant Progress and Outcomes.

Finding Category	Internal Control	Finding Rating	Medium
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Observation

There are inadequate systems and guidelines in place to provide transparency and accountability on grant progress and outcomes.

There is a high degree of transparency in relation to what grants are recommended and ultimately funded. Recommendations to the Minister and the Minister's decisions are publicised. This includes recipients, the title of the project, the amount approved and the funding platform under which it is approved or recommended. This includes the DPI website, the Trust's Annual Report and the NSW Grants Portal. There is, however, no reporting on a systematic basis on grant progress and outcomes i.e. grant acquittal data.

Prior to October 2021, DPI provided a monthly dashboard report on the Trust Fund, which included information on the financial position of the Trust Fund, projects underway and projects completed.

Testing conducted on twelve grants sampled found five grants (41.6%) had been delayed and milestone dates not met. These projects have not received any of their approved funding, one year after the grant was approved.

The terms of reference for both Expenditure Committees state the Committees should receive Recreational Fishing Trust project updates from DPI and provide advice to RFNSW and DPI on any issues arising from the project updates.

Minutes from the Expenditure Committees and documents provided in the course of the audit, showed DPI provides reports on individual projects however, there is no briefing or reporting of outcomes or delays in relation to all projects.

The annual report discusses outcomes and accomplishments for the Trust; however, these are thematic rather than detailed reports on what grants are completed or what they have achieved. The appendix of the Trust's Annual Report lists every grant made and how much was granted, however this could be improved by adding a column next to each outlining the progress or completion of the project.

Grants approved to DPI appear to lack any specific accountability back to the Advisory Council and Expenditure Committees for the completion of milestones or outcomes. The exception to this is compliance operations funded from the RFT.

In examining the funding deeds, it was noted they are focussed on outputs and there is little focus on the project outcomes the funding is seeking to achieve.

Implications

Failure to have clear reporting processes increase the protentional risk of:

- reduced accountability and transparency, which could impair the ability to monitor and evaluate the progress and impact of the grant projects.
- poor decision making and learning, which could limit the opportunity to identify and address the challenges and risks of the grant projects, and to improve the design and delivery of the grant program.
- inadequate use of resources which could result in duplication, overlap, or gaps in the grant projects, and reduce the value for money and return on investment of the grant program.

Recommendations

18. DPI should recommence the practice of providing a status update of all projects to the Advisory Council and Expenditure Committees. This should provide updates on the status of projects such as how many have commenced; how many are delayed and whether milestones have been met.
19. DPI should include a comprehensive update on the completion or status of funded projects in its Annual Report.
20. To ensure transparency of DPI projects, the Advisory Council and Expenditure Committees should receive specific briefings on all DPI projects.
21. Funding deeds should have a greater focus on reporting outcomes and benefits rather than just outputs.

2.6 License fees and debt management

Finding Category	Internal Control	Finding Rating	Medium
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Observation

Controls over reconciliation of licence sales by the agents need enhancement. Controls over key governance documentation also needs improvement.

Recreational fishing licences are sold through various channels. One such channel is through agents who provide recreational fishing fee payment services. Under this arrangement, agents are provided with manual licence books. Licences are issued by the agents using these manual books. A monthly return sheet is provided by the agent detailing the various licences sold during the month.

Review of the controls over issuing new license book to the agents indicated that the existing reconciliation performed between sales reported by the agent and licences sold from the old book does not include ensuring all licenses issued by the agent against the old book have been reported completely and accurately.

Further several governance documentations including policies, procedures and work instructions have been issued to manage the issue of licenses, receipting of fees, banking activities and debt management processes. Review of these documents indicated:

- debt management policy and associated procedures have not been reviewed since they were issued in 2012 and 2013 respectively.
- work instructions available to manage receipting and accounting of license fees do not have appropriate documentation controls. Examples of such controls include document owner, history of changes, version control, next date of review etc. These controls will ensure that the documents are reviewed in a timely manner and reflect the current processes and controls.

Implications

- Financial risk resulting from license fees not accounted completely and accurately.
- Operational risk from obsolete policies and procedures leading to errors and inefficient operations.

Recommendations

22. Strengthen the current reconciliation process to ensure all licence numbers have been accounted for in previous months when a licence book has been completed and returned by an agent
23. Review and if necessary, update the debt management policy and related procedures.
24. Implement appropriate document control procedures to ensure work instructions are reviewed and updated in a timely manner.

2.7 Operational Overhead Costing Rate

Finding Category	Internal Control	Finding Rating	Medium
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Observation

There is no framework/guidance documentation to administer the operational overhead costing rate for DPI Recreational Fishing Trust project applications. The operational overhead costing rate policy and the associated rate needs review.

An operational overhead charge applies to DPI Recreational Fishing Trust project applications that receive funding from the Recreational Fishing Trust. The charge relates to indirect (non-salary) employee related costs, for example office accommodation and running costs, ICT services and support, corporate and human resources support, legal services etc. Additional overhead rates in the form of salary-on cost applies across the department (including for DPI RFT project applications).

Through our review of documentation and interviews with key personal the following concerns have been noted:

- there is no framework or guidance documentation which sets out the process to administer the operational overhead costing rates; and
- the operational overhead costing rate policy was last reviewed in 2006. The rate has remained unchanged since its last review in 2006 indicating the necessity for a current assessment to ensure its relevance and accuracy in the present operational landscape.

Implications

Lack of benchmarking against industry best standards or best practices for calculation and administration of the operational overhead costing rate.

Recommendations

25. Develop adequate framework /guidance documentation for administration of the overhead costing rates.
26. Perform a review of the operational overhead costing rate policy and the associated rate to ensure it is relevant and adequately reflects existing operational landscape.

Appendix A: Terms of Reference

Objective and Scope

The objective of the audit was to assess the effectiveness of controls and governance processes associated with the management of the RFT.

To achieve this objective the audit included the following scope areas and control objectives:

Accountability.

- 1.1 Are there appropriate documentation, processes, and structures to assess funding applications, and are these applied appropriately, including as defined in the Recreational Fishing Trust guidelines. These include funding applications, meeting process and record keeping, committee structure and terms of reference and the assessment process.
- 1.2 Does consultation with the Recreational Fishing NSW Advisory Council on Recreational Fishing Trust expenditure priorities occur, as prescribed by the Act.
- 1.3 Are funds disbursed from the Trust Funds done so under authorisation of the Minister, as prescribed by the Act.
- 1.4 Are there appropriate controls and secure payment and reconciliation systems (including receipting, banking, and debt management) in place to ensure that all amounts that should be paid into the Trust are paid accordingly.

Transparency.

- 2.1 Are the projects which were approved in 2022/23 consistent with what can be approved and funded under the Act.
- 2.2 Does RTF expenditure align with the priorities as per established investment plans and recreational fisher survey feedback of recreational fishers across NSW.
- 2.3 Are there appropriate (as per NSW Government Boards and Committees Guidelines) mechanisms in place to manage any conflicts of interest involving assessment of funding applications, development of funding recommendations and associated approvals.
- 2.4 Are there appropriate processes in place to effectively manage payment of funds to grant applicants, including being contingent upon meeting funding deed obligations and/or completion of project milestones.

Fairness.

- 3.1 Are there adequate and appropriate mechanisms to advise potential applicants about opportunities to apply for funding to promote broad engagement in the Recreational Fishing Trust program.
- 3.2 Consider whether the NSW Department of Primary Industries (DPI) calculation of the operational overhead costing rate and the salary on-costs rate for DPI Recreational Fishing Trust project applications are reasonable or require further review and are appropriately administered.
- 3.3 Consider whether there are consistent assessment procedures applied against all funding applications by the Trust Expenditure Committees.

Alignment with Government Guidelines.

4.1 Are the current RFT expenditure committees established in line with the DRNSW policy – Fisheries advisory groups: Establishments and Governance (TI-O-146) and are the RFT expenditure committees and the Recreational Fishing NSW Advisory Council established in line with the NSW Government Boards and Committees Guidelines and the Public Service Commissioner's Appointment Standards for Boards and Committees in the NSW Public Sector, including with regard to (but not limited to):

- the principle of diversity.
- membership tenure.
- skills, experience, and knowledge of members.
- probity.

The audit covered the period from 1 July 2022 to 30 June 2023.

Appendix B: Overview of the Recreational Fishing Trust

Legislative and Regulatory Requirements.

The purposes that recreational fishing fees can be used are defined under S34AA of the Fisheries Management Act 1994. (The Act).

The Recreational Fishing NSW Advisory Council (RFNSW) has been established under Section 229 of the Act. This section of the act allows the Minister to establish advisory councils including one for recreational fishing. RFNSW is established under Regulation 247 (1) (b) of the Fisheries Management (General) Regulation 2019. (The Regulation).

Section 229 (2) of the Act, Regulation 247 and Schedule 7 of the Regulation also allows for the appointment of members to RFNSW and the Regulation states that expressions of interests for RFNSW may be sought *by publishing a notice in any manner that the Minister is satisfied is likely to bring the notice to the attention of members of the public generally.*

Section 229 of the Act states that the Council's role is advisory in nature.

Section 230 of the Act states that the Secretary may establish advisory groups. They may

- determine the number of members to be appointed to an advisory group, and
- appoint the members of an advisory group, and
- determine the functions of an advisory group.

S 230 further states that a person may be appointed as a member of an advisory group only if the Secretary is satisfied that the person has skills and experience that are relevant to the functions of the group and that the Secretary may, subject to the regulations, determine the term of office and procedure of an advisory group. The Recreational Fishing Freshwater Trust Expenditure Committee (RFFTEC) and Recreational Fishing Saltwater Trust Expenditure Committee (RFSTEC) are advisory groups established by the Deputy Director General DPI Fisheries, through a delegated power under s230 of the Act.

The Recreational Fishing (Freshwater) Trust Fund and the Recreational Fishing (Saltwater) Trust Fund are established under Section 233 (1) of the Act. Section 233 (2) places the money under the control of the Minister and can only be expended by the Minister.

Under S 234 (2) of the Act, the following can be paid out of the Freshwater Trust Fund:

- The costs of stocking freshwater with fish, or taking other measures, to enhance, maintain or protect recreational fishing, and
- The costs of carrying out research into freshwater fish and their ecosystems, and
- The costs of management and administration of recreational freshwater fishing (including commission for authorised agents collecting recreational freshwater fishing fees), and
- The costs of ensuring compliance with recreational freshwater fishing regulatory controls, and
- The costs of providing third-party insurance coverage for landowners where recreational fishers use private land (or water over private land) for freshwater fishing, and
- The costs of consultative arrangements with freshwater recreational fishers.

Under S 234 (4) of the Act, the Minister must consult the Council on the allocation of recreational fishing fees to that Fund, and policies and priorities for expenditure from that Fund.

S235 of the Act applies to the Saltwater Trust and mirrors the provisions under S234 with some small differences.

S238A of the Act outlines the required consultation processes regarding expenditure from the RFT. This section requires the Minister to provide the Council with a draft budget, to give them one month to make recommendations on the budget and for the Minister to make those recommendations into account in their decision making.

S238B allows the costs of environmental assessment to be paid from or reimbursed from the trust funds.

S238C allows the costs of species impact statements to be paid from or reimbursed from the trust funds.

S239 of the Act requires that reporting on the use of the funds is made in the Department's Annual Report.

S239A outlines the requirements for the investment of funds.

S239B states that the Minister may establish a separate account or a separate section of the trust for funds expended on research.

Establishment and Governance of RFNSW

The NSW Public Service Commission Appointment Standards for Boards and Committees in the NSW Public Sector apply to the recruitment and selection process for the Council. This includes Ministerial approval to advertise to fill positions on the Board.

Interviews are conducted in a manner consistent with the above and recommendations are forwarded to the Minister who approved the appointments. The term for a member is three years. There does not appear to be a limit to how many terms a member can serve.

New members are provided with:

- The RFNSW Charter – which includes the Terms of References and outlines the objectives of the Council, its mode of operation and roles and responsibilities of members.
- The NSW Boards and Committees Guidelines.

There is a Code of Conduct for members of RFNSW. On appointment, members are required to sign an acknowledgement that they do not know of any matters that would conflict with their duties or give rise to any probity issues, that they will abide by the code of conduct and provide a declaration of all pecuniary interests.

RFNSW usually meets four times per year or more as required. DPI advises that meeting frequency is based on business needs. There is no set number of meetings but around 4 times per year is a general expectation in consultation with the chair (although some years have had more than 4 meetings) Outcomes for the meetings and the Chairs Summary are published on DPI's website.

DPI publishes the membership of RFNSW on its website.

Registers are maintained outlining pecuniary interests for all members of RFNSW.

Establishment and Governance of RFSTEC and RFFTEC:

Policy Number: TI-O-146 titled *Fisheries advisory groups: Establishment and governance* outlines the Department's approach to the establishment and management of the Advisory Groups established under s230 of the Act. This policy applies to RFSTEC and RFFTEC. It does not apply to RFNSW. It covers:

- Requirements and processes for the establishment of Advisory Groups.
- Selection of Members. This outlines the process for selecting members.
- Terms of Appointment.
- Privacy.
- Conduct.

- Dismissal of members.
- Changes to the terms of reference.
- Meetings.
- Financial Management.
- Dispute resolution.
- Communications.

Policy TI-O-146 is complemented by the *Fisheries advisory groups: Procedures* (PROC17/53) which provides more detailed guidelines on establishing and operating fisheries advisory groups.

Terms of reference are required for each Advisory Group.

New members are provided with:

- Terms of reference for the Advisory Group.
- A Member's Handbook.
- The NSW Boards and Committees Guidelines.

There is a Code of Conduct for members of RFFTEC and RFSTEC. On appointment, members are required to sign an acknowledgement that they do not know of any matters that would conflict with their duties or give rise to any probity issues, that they will abide by the code of conduct and provide a declaration of all pecuniary interests.

The Recreational Fishing Saltwater and Freshwater Trust Expenditure Committees (RFSTEC and RFFTEC) are established as Advisory Groups under s.230 of the Act (noting they are not specially identified in the Act or Regulation and are not a statutory requirement). Their role is to:

- Review and assess funding applications received by DPI seeking funding from the Recreational Fishing Saltwater and Freshwater Trusts. Applications are assessed against a range of criteria, including the extent of benefits to recreational fishing, cost effectiveness, support from recreational fishing organisations, project team expertise and track record, innovation, and technically sound methodology.
- Provide funding recommendations to RFNSW following review and assessment of funding applications.
- Receive Recreational Fishing Trust project updates from DPI and provide advice to RFNSW and DPI on any issues arising from the project updates.
- Provide advice to RFNSW on any other specific issue referred to RFSTEC and RFFTEC.

The EOI process states that the RFFTEC and RFSTEC meet three times per year. Minutes of meetings are published on the Department's website.

DPI publishes the memberships of RFFTEC and RFSTEC on its website.

Registers are maintained outlining pecuniary interests for all members of RFFTEC and RFSTEC.

RFT Funding and Grants:

All revenue received from Recreational Fishing Licences are paid in to two recreational fishing trusts. The purposes for fishing fees are defined in Section 34AA of the Act. These are:

- enhancing, maintaining, or protecting recreational fishing,
- carrying out research into fish and their ecosystems,
- managing recreational fishing,
- ensuring compliance with recreational fishing regulatory controls.

The Minister's powers to allocate money to the trusts derives from S234 and S235 of the Act.

RFNSW and the RFFTEC and RFSTEC each have specific roles in the allocation of funding. RFNSW is responsible for providing high-level priorities for the Trusts and to advise the Minister on funding proposals. RFFTEC and RFSTEC review and assess applications and then provide recommendations to RFNSW.

There are no fixed dates for each funding round. The Minister announces the opening of each funding round via media release and the associated closing date for submission of funding applications.

Further advertising of the rounds is undertaken by DPI. DPI has published RFT Funding Guidelines on its website and the NSW Grants and Funding webpage. These include eligibility and assessment criteria. Application forms are provided separately for small projects under \$10,000 and large projects over \$10,000.

The procedures for managing the funding rounds are outlined in the *DPI Trusts Management Procedures*. (Note: This is an internal document used by the Department to guide processing of applications and projects. It is not a publicly available document.).

There is a register of all grant applications received.

Applications are forwarded to the relevant expenditure committee for consideration. The outcomes of those considerations are documented.

Conflicts of interest are considered and if necessary, declared during the application assessment phase.

The Trusts Management Procedures outline the process of setting and monitoring milestones for progress reporting. RFFTEC and RFSTEC are tasked with providing advice to RFNSW. They also receive project updates at meetings (noting it is on an as needed basis and does not cover every project). There is no project-by-project reporting to anybody.

The Trusts Management Procedures outline DPI processes for the management of the grants cycle from application to completion.

DPI publishes an *Investment Plan* which outlines all funding by priority area over a three-year period.

The Minister is briefed on the financial state of the trusts in each funding round.

Annual Reports are published on the RFT.

Existing reporting and audit activity relating to the RFT include:

- Financial statements on the RFT are included in DRNSW's Annual Report.
- A special purpose financial report on all fisheries trusts (including the RFT) is prepared annually by the NSW Audit Office.
- Periodical audits as part of the DRNSW Internal Audit Program on RFT funds and programs.
- An interactive Recreational Fishing Trust Annual Report was launched online in 2020/21 to further increase accountability and transparency and highlight the diversity of initiatives supported by the Trusts. The 2021/22 report was tabled in Parliament last year - <https://www.dpi.nsw.gov.au/fishing/recreational/recreational-fishing-fee/rft-annual-report>

Appendix C: Inherent Limitations & Restrictions on Use

This Internal Audit has been completed in accordance with the Institute of Internal Auditors (IIA) International Standards for the Professional Practice of Internal Auditing (the IIA Standards) and NSW Treasurys Circular: *TPP 20-08 Internal Audit and Risk Management Policy for the General Government Sector*.

The matters raised in our report came to our attention as a result of testing performed during the course of our internal audit. Testing is conducted on a sample basis, over a specific period of time, and our report therefore provides assurance regarding the operating effectiveness of the actual controls tested. The possibility therefore exists that our report may not have identified all weaknesses which relate to controls not tested as part of this internal audit.

Our internal audit is not a substitute for management's responsibility to maintain adequate controls over all levels of operations and their responsibility to prevent and detect irregularities. Management should therefore not rely solely on our report to identify all weaknesses that may exist.

Our comments should be read in the context of the scope of our work as detailed in the terms of reference. Where possible, management representations are independently verified, though some findings in this report may have been prepared on the basis of management representations which have not been independently tested.

Suggestions for improvement should be assessed by management for their full commercial impact before they are implemented. This report has been prepared solely for the use of management and should not be quoted in whole or in part without our prior written consent. No responsibility to any third party is accepted as the report has not been prepared, and is not intended, for any other purpose.