

**REPORT OF THE NSW OCEAN TRAWL
SOUTHERN FISH TRAWL RESTRICTED FISHERY
INDEPENDENT ALLOCATION PANEL**

IAP Report (Final) – 29th June 2018

**Report to the
Minister for Primary Industries (NSW)**

Report prepared by the Independent Allocation Panel

Professor Daryl McPhee, Susan Madden and Brett McCallum

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1. Executive Summary

Public consultation documents¹ developed by the NSW Government and various scientific reports set out that fishery management arrangements applied in NSW have ensured that the vast majority of fish stocks are sustainably harvested and that fish stocks that have been subject to commercial (and other sector) harvesting for 50+ years are generally in good shape.

However, the economic viability² of the commercial fishing industry is not in the same positive condition. The Government recognises that some individual fishers are profitable but the overall economic viability of the industry has been negatively impacted by many factors - loss of fishing grounds, competition from cheap imports, increasing costs, excess fishing capacity, restrictive fishing regulations and the failure to issue fishing rights (shares) during 2004-07 with any link to a meaningful proportion of resource allocation. While some of these relate to the broader competitive business environment that the industry operates in, others are the cumulative impacts of managing a finite common property resource with competing stakeholder groups and also diverse views and business aspirations within a stakeholder group.

The *Ocean Trawl – Southern Fish Trawl Restricted Fishery* has long been a candidate for merger with the *Commonwealth Southern and Eastern Scalefish and Shark Fishery* (SESSF). The background to this merger is set out in a recently released *Public Consultation Paper: Transitioning the NSW Southern Fish Trawl Fishery to Commonwealth management* (March 2018)³.

The NSW Government established an Independent Allocation Panel (IAP) in October 2017 under a series of Terms of Reference (ToR) to advise on the allocation of quota shares for a range of nominated species across several share classes within various NSW fisheries.

Having reinvigorated discussions in early 2017 on the merger of the *Ocean Trawl – Southern Fish Trawl Restricted Fishery* with the *Commonwealth SESSF*, the NSW Government took the opportunity to also seek advice from the IAP on the allocation of quota for a number of nominated species in the *Ocean Trawl – Southern Fish Trawl Restricted Fishery*. AFMA will become the new fishery manager after the proposed transition is complete.

The Minister for Primary Industries approved the ToR for the IAP seeking advice on the allocation of quota for nominated species in the *Ocean Trawl - Southern Fish Trawl Restrictive Fishery*.

¹ Public Consultation Paper: Generic information relating to the reform program and reform options for NSW commercial fisheries (NSW DPI, April 2014, OUT 14/10076).

² *Viability* refers to the economic viability of the entire commercial wild harvest sector, not the viability of an individual – p2, Public Consultation Paper: Generic information relating to the reform program and reform options for NSW commercial fisheries (NSW DPI, April 2014, OUT14/10076).

³ Transitioning the NSW Southern Fish Trawl Fishery to Commonwealth management. NSW Department Primary Industry (March 2018).

The ToR for the *Ocean Trawl - Southern Fish Trawl Restricted Fishery* sets out the species for which advice on allocation of quota would apply, being:

<p>Eastern school whiting Silver trevally Flathead species (combined):</p> <ul style="list-style-type: none"> • Bluespotted flathead • Tiger flathead • Southern bluespotted flathead • Southern sand flathead • Toothy flathead <p>John Dory Redfish</p>	<p>Sawshark species combined:</p> <ul style="list-style-type: none"> • Common sawshark • Southern sawshark <p>Blue Warehou Gummy Shark Jackass Morwong School shark Elephant fish</p> <p>Ocean perch species combined:</p> <ul style="list-style-type: none"> • Reef ocean perch • Bigeye ocean perch
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Note: Given that there are no ‘access shares’ issued in the *Ocean Trawl - Southern Fish Trawl Restricted Fishery*, the IAP has accepted that the ‘restricted fishery endorsement’ is the current legislative access right for the fishery.

The IAP communicated directly with all eligible endorsement holders advising of the establishment of the IAP, providing access to the ToR, and providing the necessary information to enable eligible endorsement holders to book an individual or group face-to-face consultation with the IAP and/or to make a written submission to the IAP by a due date.

For direct consultation, the IAP embarked on face-to-face consultations at key port locations in NSW as well as consultations by teleconference from mid February 2018 to mid March 2018. Written submissions were encouraged and received.

The IAP produced a Draft IAP Report after considering the views presented by those eligible endorsement holders in the *Ocean Trawl - Southern Fish Trawl Restricted Fishery* attending consultation meetings together with the views contained in written submissions, as well as information from appropriate background documentation.

The Draft IAP Report was circulated to all eligible endorsement holders in the *Ocean Trawl - Southern Fish Trawl Restricted Fishery* and other interested stakeholders on 30th April 2018. The IAP encouraged written submissions from eligible endorsement holders on the findings, conclusions and recommendations contained in this Draft IAP Report by the close of business 21st May 2018.

Following consideration of written submissions to the Draft IAP Report and any further information deemed necessary, the IAP has finalised and submitted this Final IAP Report for the *Ocean Trawl - Southern Fish Trawl Restricted Fishery* to the Minister for Primary Industries on 29th June 2018.

2. IAP Summary of Recommendations (Full details in section 12)

2.1 Proportional Allocation of Fish Species Between Share Classes and Fisheries

The ToR for the *Ocean Trawl – Southern Fish Trawl Restricted Fishery* outlined in Guiding Principle 5 that the IAP take into account, where relevant, existing rights held by others including shareholders in NSW commercial share classes and holders of Commonwealth Statutory Fishing Rights (SFRs).

Where catch quota shares are issued for a particular species in more than one NSW fishery or share class (i.e. flathead, whiting, ocean perch, silver trevally and gemfish) the IAP recommends that the initial amount of quota/quota shares allocated for each species in each fishery or share class is proportional to the recorded landings of that species for each fishery or share class compared to the total recorded landings of that species in all NSW fisheries and share classes within the recommended criteria period.

Should DPI be of the opinion that they can provide quality data in a calendar year format for the NSW fish trawl species nominated in the IAP ToR, the IAP recommends the criteria period be calendar years 2009 to 2017 (inclusive) for the Ocean Trawl – Inshore / Offshore Trawl share class, the Northern Fish Trawl share class and the Southern Fish Trawl Restricted Fishery to maximise the opportunity for active fishers to maintain their catch, as far as is practical, to their current levels. Given this recommendation the IAP would encourage the transition process for the Ocean Trawl - Southern Fish Trawl Restricted Fishery to Commonwealth management adopt the same criteria periods.

Expressed as a formula, the following example outlines the way to calculate a specific species quota share allocation proportion for the *Ocean Trawl – Southern Fish Trawl Restricted Fishery*:

$$\frac{\text{Sum of Total Recorded Landings of a specific species in the SFTRF for calendar years 2009 to 2017 (inclusive)}}{\text{Sum of Total Recorded Landings of all NSW fisheries and/or share classes catching that specific species for calendar years 2009 to 2017 (inclusive)}}$$

2.2 Allocating Species Quota in the Ocean Trawl – Southern Fish Trawl Restricted Fishery

The IAP recommends that the allocation of quota shares for each species in the ToR for the *Ocean Trawl – Southern Fish Trawl Restricted Fishery* be calculated based on 20% on holding a current restricted fishery endorsement + 80% on recorded landings of that species for an individual fishing business in the fishery over the selected criteria period 2009/2010 to 2016/2017 (inclusive) but excluding the worst catch year.

Expressed as a formula, the IAP recommends that an eligible shareholder's quota share allocation for each specific species will be:

$$\frac{(20\% \times \text{Total number of endorsements held by an individual Fishing Business in the SFTRF})}{\text{Total number of endorsements in the SFTRF}}$$

+

(80% x Individual Fishing Business's Total Recorded Landings of a specific species in SFTRF
excluding the 'worst year' for the period 2009/10 to 2016/17 (inclusive))

Sum of the Total Recorded Landings of a specific species *excluding the 'worst year'* for the period
2009/10 to 2016/17 (inclusive) for all current fishing businesses with endorsements in the SFTRF

The quota volume (i.e. kg) received in any given year, would therefore be the quota share multiplied by the total annual allowable commercial catch (TACC) for the species.

The IAP wishes to make it clear that setting of the TACC is a separate process and is outside the scope of the IAP ToR.

3. Definitions

Access - is the legally based right to take fish from the common property resource for particular purposes. For a commercial fisher, the access right is usually a commercial fishing licence, endorsement or authority.

Allocation - is the legally based level of activity to be exercised by an individual or class of individuals. This level of allocation is subject to a range of fisheries management laws and controls designed to protect the fishery and achieve the objectives of the legislation. Examples of these management controls include individual catch or effort quotas, effort limits, bag limits, area or time restrictions.⁴

Quota – quota can be based on allocated catch limits (kgs/tonnes), effort (days, nights, gear) or a limited number of access endorsements⁵.

Recorded Landings – reflects the recorded catch landings contained in official logbook data provided by the Department of Primary Industries (DPI).

4. Introduction

Commercial fisheries with well defined and allocated access rights have a proven track record of long-term biological and economic outcomes.

The legislative responsibility for decisions on allocation of rights to public resources such as commercial fisheries rests with government. However, experience in Commonwealth fisheries management, and some states, is that commercial fishing licensees will have greater confidence in resource share allocation decisions where recommendations on how to allocate access rights are developed through a process 'independent' of government.

Such independent review processes include extensive consultation, an independent assessment of the range of possible allocation mechanisms, taking into account fishery and individual licensees circumstances, and eventual recommendations to the government on the preferred basis for allocation. This independent process allows allocation advice to be one step removed from both the government making the decision and the vested interests of the fishers that may be directly impacted by allocation decisions. It is important that all fishers who may be directly impacted are afforded the opportunity to present their views, including on any draft recommendations prior to final allocation advice being provided.

⁴ Principles and Guidelines in Support of Fisheries Inter-Sectoral Access and Allocation Decisions (P.Neville, D.McPhee, M.Barwick 2012)

⁵ Response to Recommendation 6.1, (p8), Government Response to the Recommendations of the Independent Review of Commercial Fisheries Policy, Management and Administration (2012)

To address these requirements many fisheries managers across Australia use independent allocation panels (IAPs).

Allocation is about determining harvesting rights in a fishery. It does not involve making recommendations on stock sustainability – for example determining the size of the total allowable commercial catch (TACC). This remains largely a biological/ecological fisheries management issue. Allocation means working out what individual proportion of total annual catch allowed for the fishery (i.e. kilograms or tonnes) or proportion of the total effort allowed in the fishery (i.e. days to be fished, pot/nets to be used) is to be allocated between those operators who have been already granted access rights to a fishery and the species within that fishery.

IAPs only provide advice. Fisheries management agencies or the Minister of the Crown are ultimately responsible under legislation for determining the final allocation formulae and associated matters. Examples exist, albeit rare, when government has not accepted some, or all, of the recommendations presented by an IAP.

An IAP works to a Terms of Reference (ToR) approved by the government. The ToR usually require the IAP to consider appropriate background material, receive briefings from the department responsible for managing commercial fisheries, and to consult extensively with holders of fishing endorsements/units/shares, any associated stakeholders and organisations with relevant knowledge and experience.

The NSW Government established an Independent Allocation Panel (IAP) for the *Ocean Trawl - Southern Fish Trawl Restricted Fishery* to provide advice to the Minister for Primary Industries and the Department of Primary Industries (DPI) on the basis for the allocation of species quota to the holders of *Ocean Trawl - Southern Fish Trawl Restricted Fishery* endorsements (“eligible endorsement holders”).

The IAP consultation took place primarily through individual meetings with eligible endorsement holders, receipt of written submissions and an industry review of the Draft IAP Report. Written submissions on the Draft IAP Report were received from eligible endorsement and interested stakeholders. Submissions were considered by the IAP, the issues raised were assessed, further information taken into account, and the Final IAP Report submitted to the Minister for Primary Industries on 29th June 2018.

This Final IAP Report sets out the background for establishing the IAP, the issues raised through the various consultation stages, the IAP considerations of the relevant issues and the IAP recommendations for the basis for the allocation of quota to the eligible endorsement holders in the *Ocean Trawl - Southern Fish Trawl Restricted Fishery*.

5. Summary of History of NSW Southern Fish Trawl Restricted Fishery

Initially, in NSW commercial fisheries were ‘open access’, with access authorised by merely holding a fishing boat licence and fishing licence. A series of management decisions were applied over time:

- a permanent cap on the number of fishing boat licences was established in 1984;
- a freeze on the issue of new fishing licences in 1987 (with the exception of new hand-gathering licences in 1991);
- agreement in 1990 between NSW and the Commonwealth (Offshore Constitutional Settlement) ceding jurisdiction to the State for specific methods/species in waters outside 3nm;
- introduction of hull, engine and net units in some fisheries around 1994; and
- introduction of policy in 1994 to commence recorded landings validation for registered fishing businesses.

A Parliamentary Inquiry into the NSW commercial fishing industry in the late 1980s resulted in new fisheries management legislation and regulations being introduced in NSW in 1995 that were developed on the principles of 'share management' that set out as follows:

- right to participate in the share management fishery and compensation if that right was cancelled;
- promote greater husbandry of the resource;
- cost recovery would be introduced;
- a community contribution for the privileged access to a public resource would be payable; and
- shares would be the structural adjustment tool.

The *Fisheries Management Act 1994* provided the enabling legislation to introduce a fishery share management system.

A review of share management implementation in NSW commercial fisheries was carried out in 1995 resulting in the rock lobster and abalone fisheries proceeding directly to share management by late 1996 with access shares directly linked to a proportion of the total allowable catch established for the fishery. That is, the more shares held, the greater the proportion of the TACC held.

The remaining fisheries (including the Southern Fish Trawl Restricted Fishery) were to be progressed in 1997 to a restricted fishery management framework. This included a series of defined fisheries – estuary general, estuary prawn trawl, ocean hauling, ocean trawl and ocean trap and line. Within each defined fishery were sub-fisheries identified through specific 'access endorsements' including an *Ocean Trawl - Southern Fish Trawl Restricted Fishery* access endorsement.

A person was eligible for an *Ocean Trawl - Southern Fish Trawl Restricted Fishery* endorsement if they owned a NSW licensed fishing boat and:

- held a Commonwealth South East Fishery fish trawl permit; or
- had submitted at least six (6) recorded landing returns in any one of the years from 1986 to 1990 that demonstrate that the person caught not less than 25 tonnes of fish species by fish trawl in designated zones in any one of the years from 1986 to 1990.
 - The listed species were as defined in the regulations (Clause 187 (Part 9, Division 2) of the *Fisheries Management (General) Regulation 1995*).

An *Ocean Trawl - Southern Fish Trawl Restricted Fishery* endorsement authorised the holder to use an otter trawl net (fish) to take fish (other than prawns) for sale from ocean waters that are not more than 3 nautical miles from the natural coast line south of a line drawn due east from Barrenjoey Headland to the Victorian Border.

It is understood that an investment warning was issued after 1996 advising new entrants to purchase fishing businesses with good verified catch history as the access and allocation criteria may change in the future. There appeared to be no identified period of time after which the investment warning ceased to be in operation, beyond the finalisation of management reforms and changes.

In 2007 the Government moved five fisheries to Category 1⁶ share management status. This did not include the *Ocean Trawl – Southern Fish Trawl Restricted Fishery*, which has remained a restricted entry fishery under regulation⁷. No access shares have been issued

⁶ NSW Government Gazette No.75, Official Notices, p2155, 23 April 2004

⁷ Fisheries Management (General) Regulation 2010, Part 9, Division 2

within this fishery. The basis for this policy decision was the intention to investigate and potentially transition the *Ocean Trawl – Southern Fish Trawl Restricted Fishery* to Commonwealth management.

In practice the *Ocean Trawl – Southern Fish Trawl Restricted Fishery* endorsement functions as the access right and the fishing operator is required to hold an endorsement and meet regulated input controls such as vessels size, gear and seasonal closures. There are no output controls such as a total allowable catch. Endorsements are tradable.

From 2007 the NSW Government and industry have been progressing ways to link shares to resource access. Part of that process was the establishment of the Structural Adjustment Review Committee (SARC). The SARC (2015) concluded that an equal allocation based on existing access shares would place an '*unacceptable and unintended substantial financial burden on a relatively small number of fishing businesses who currently account for a high proportion of the catch of those species*'. The SARC recommended that new share classes be established in these particular share classes across a range of species. This included certain species that are also caught in the *Ocean Trawl – Southern Fish Trawl Restricted Fishery*.

The SARC (2015) recommended that the Government establish an independent allocation panel (IAP) to provide advice on allocation of quota shares in these share classes. In developing the terms of reference for the IAP, the SARC recommended that mitigating impacts on active operators be clearly articulated to the IAP as a key objective of the allocation process.

The Government announced the *NSW Commercial Fisheries Business Adjustment Program* on 31st May 2016. An amount of \$16 million was provided by the Government to support 'exit grant' funding to help share the cost between those buyers and sellers trading access shares on the market. Despite the *Ocean Trawl – Southern Fish Trawl Restricted Fishery* not being a share managed fishery, the exit grant program provided \$20,000 for any *Ocean Trawl – Southern Fish Trawl Restricted Fishery* endorsement surrendered for cancellation (under certain circumstances).

The NSW DPI released an investment warning (April 2017) which set out that '*Investment, activation of latent SFT endorsements or increased fishing in response to any changes to the trip limits that may occur, will not guarantee future access and may impact the longevity of the changes being considered*'.

The NSW Government established the IAP in October 2017. The IAP was charged with the responsibility to consult with fishing business operators and other stakeholders in the nominated share classes and fisheries and provide advice to the Minister for Primary Industries on the basis for the allocation of quota shares or quota across a range of species across a range of share classes/fisheries.

The New South Wales Government has advised that the *Ocean Trawl - Southern Fish Trawl Restricted Fishery* operating waters and methods will be ceded to the Commonwealth for the taking of certain species. Former operators in the *Ocean Trawl - Southern Fish Trawl Restricted Fishery* will be managed as part of the Commonwealth Trawl Sector (CTS) (colloquially the South East Trawl Fishery or South East Fishery) of the Commonwealth Southern and Eastern Scalefish and Shark Fishery (SESSF). The scope of this transition is only for waters within 3 nm of the NSW coast south of Barrenjoey Head.

There are currently 23 NSW fishing business owners that are eligible for an *Ocean Trawl - Southern Fish Trawl Restricted Fishery* endorsement, around half of which also operate currently in the SESSF under a separately held Commonwealth concession.

It is proposed that the transition of the *Ocean Trawl - Southern Fish Trawl Restricted Fishery* to Commonwealth management will take effect on 1st May 2019, which is the start of the SESSF fishing season.

The NSW Government, having reinvigorated discussions in early 2017 on the merger of the *Ocean Trawl – Southern Fish Trawl Restricted Fishery* with the *Commonwealth Southern and Eastern Scalefish and Shark Fishery (SESSF)*, took the opportunity to also seek advice from the Independent Allocation Panel (IAP) on the allocation of quota for a number of nominated species in the *Ocean Trawl – Southern Fish Trawl Restricted Fishery*.

Terms of Reference (ToR) for the IAP for the *Ocean Trawl – Southern Fish Trawl Restricted Fishery* can be found at Appendix 5.

The *Ocean Trawl - Southern Fish Trawl Restricted Fishery* ToR provided to the IAP contained a note setting out that NSW will be advising the Commonwealth on the apportionment of quota rights between owners of NSW fishing businesses eligible for a *Southern Fish Trawl Restricted Fishery* endorsement. That advice will be provided by the NSW Government to the Commonwealth for decisions to be made about the allocation of quota fishing concessions as part of a proposed arrangement to cede jurisdiction of the *Southern Fish Trawl Restricted Fishery* to the Commonwealth.

The ToR included in its Scope that the IAP is to consider:

- existing rights held by others including shareholders in NSW commercial fisheries and the holders of Commonwealth Statutory Fishing Rights (SFRs); and
- the possibility for fishers to trade quota rights across jurisdictions in the future.

The ToR further outlined in Guiding Principle 5 relating to existing rights and level of activity that allocation processes should have due regard to:

- the historical rights and activity of participants in the SFT fishery, subject to any individual history or catch deemed through enforcement and compliance to be in contravention of regulations (which should be excluded from any allocation decision); and,
- existing rights held by others including shareholders in NSW commercial fisheries and holders of Commonwealth Statutory Fishing Rights (SFRs).

The ToR require the IAP to minimise risk of ‘double dipping’ by NSW shareholders / SFT endorsement holders by ensuring the consistent use of reported catch and effort records (and any other data) across share classes or fisheries.

Details of the process applied by the IAP can be found in section 9.

6. Background to the *Ocean Trawl – Southern Fish Trawl Restricted Fishery*

The *Ocean Trawl - Southern Fish Trawl Restricted Fishery* is a multi-species fishery operating in ocean waters that are not more than 3 nautical miles from the natural coast line and south of a line drawn due east from Barrenjoey Headland to the NSW and Victorian border. It has a long history in NSW waters commencing just after the First World War.

The *Ocean Trawl - Southern Fish Trawl Restricted Fishery* remains a restricted entry fishery with access authorised through grant of an endorsement.

An *Ocean Trawl - Southern Fish Trawl Restricted Fishery* endorsement authorises the holder to use an otter trawl net (fish) or Danish Seine net to take fish (other than prawns) for sale. Regulations prescribe a minimum mesh size for nets (trawl 90mm / DS 83mm) and in some cases the dimensions of the overall net and any attachments to the net are also regulated.

Trip weight limits apply to many species taken in this fishery (including flathead) and size limits apply to many species taken in this fishery (including silver trevally). Under Commonwealth law a vessel must unload before moving between management jurisdictions.

The DPI provided the IAP with data for the *Ocean Trawl - Southern Fish Trawl Restricted Fishery* in January 2018 outlining that there are 23 Fishing Businesses with current access endorsements in the fishery.

7. Establishing the Independent Allocation Panel

The Independent Allocation Panel (IAP) was established in October 2017 under formal Terms of Reference (ToR) to consult with eligible endorsement holders in the *Ocean Trawl - Southern Fish Trawl Restricted Fishery* and to provide advice to the Minister for Primary Industries on the basis for the allocation of nominated species quota to the holders of *Ocean Trawl - Southern Fish Trawl Restricted Fishery* endorsements.

Full details of the IAP ToR for the *Ocean Trawl - Southern Fish Trawl Restricted Fishery* can be found at Appendix 5.

The members appointed to the IAP are:

- Associate Professor Daryl McPhee – Head of Higher Degree Research at Bond University and a current director of the Fisheries Research and Development Corporation (FRDC). He has been involved with the commercial fishing industry for 30 years. He is internationally recognised as a leader in fisheries management and research. He has experience from several fisheries allocation panels across Australia in the past 10 years.
- Susan Madden - Susan Madden is Principal Economist, Natural Resources and Agriculture, at GHD Pty Ltd. She has a range of experience in resource allocation and pricing processes, including for water, forestry and native vegetation. She is a Member of the Murray-Darling Basin Authority, Chair of the Central West Local Land Services and member of the NSW Local Land Services Board.
- Brett McCallum – has 40 years associated with the commercial fishing industry in Western Australia. Commencing with major fishing companies he spent 15 years as CEO of the WA Fishing Industry Council and 15 years as CEO of the Pearl Producers Association (Australia). He is a past Deputy Chair of the Fisheries Research & Development Corporation. He has experience on several fisheries allocation panels across Australia in the past 10 years.

Detailed biographies can be found at Appendix 4.

Grant Thornton Australia Ltd was been appointed by the DPI as independent project managers for the IAP process. All correspondence and documentation forwarded to the IAP will be held on behalf of the IAP, in confidence, at the Sydney office of Grant Thornton Australia Ltd. All information held is for use solely by the IAP.

All IAP members have made declarations they have no real or perceived conflict of interest or bias relating to the *Ocean Trawl - Southern Fish Trawl Restricted Fishery*.

In providing advice the IAP has taken account of, amongst other things, the following:

- consistency with relevant legislative objectives of the *NSW Fisheries Management Act (1994)*;
- guiding principles outlined in the ToR, such as those of fairness and equity;
- previous access and allocation decisions in this fishery;

- existing licensing arrangements and previous management decisions;
- fishing and investment history in the fishery including current level endorsements held by fishing business (FB) owners;
- stakeholders' views via face-to-face meetings with eligible endorsement holders and written submissions;
- previous allocation working group considerations in Australia; and
- other published principles and guidelines in support of fisheries inter-sectoral and allocation decisions.

There are some common principles and guidelines that should be followed when providing advice to governments on allocation of fish resources, including:

- natural justice;
- governance; and
- fisheries legislation.

Determining allocation for a fishery does not usually start with a blank sheet. In the majority of cases there is a history of government and fisheries management decisions taken over time in response to a variety of pressures that the IAP must take into account. These major decisions, and their impact on the management of the fishery, are described and, as appropriate, taken account of in this Final IAP Report.

8. Legal Background

8.1 Legislation/Policy

In providing advice, the IAP considers that the allocation method proposed must have primary regard to whether that allocation will contribute to the pursuit of the objectives of the *NSW Fisheries Management Act (1994)* as amended at the time of releasing our Final IAP Report.

The IAP has been mindful of the *NSW Fisheries Management Act (1994)* relating to the sharing and allocation of fish resources and viability of commercial fisheries under Clause 3 - Objects of the Act, including:

- 3(1) - the objects of this Act are to conserve, develop and share the fishery resources of the State for the benefit of present and future generations...;
- 3(1)(d) - to promote viable commercial fishing and aquaculture industries;
- 3(1)(f) - to appropriately share fisheries resources between the users of those resources; and
- 3(1)(g) - to provide social and economic benefits for the wider community of New South Wales.

The IAP has also taken into account NSW Government statements and documentation designed to guide decision-making. The IAP viewed such documentation as secondary to legislative objectives under the Act and any relevant regulatory controls. These documents included:

- Fisheries Management Strategies;
- Pyrmont Pact (2009);
- Future Directions for the Future of the Commercial Fishing Industry (June 2010);
- NSW Commercial Fishing Statement of Intent (May 2013); and
- Public Consultation Papers on Reform Options for Fisheries.

8.2 Guiding Principles

As noted in the ToR (see Appendix 5), the IAP has taken account of published principles and guidelines in support of fisheries inter-sectoral and allocation decisions:

1. **Fairness and equity** – the overarching principle that should inform an allocation issue is one of fairness and equity. That is, the resource is to be allocated in a way that distributes the benefits of use fairly amongst the licence holders and minimises any differential economic impacts such as wealth redistribution arising from allocation.
2. **Optimum utilisation** – this means that the resource is to be allocated in a way that achieves the best use of the resource for the community at large, not just best for a particular sector.
3. **Certainty for users** – the resource should be managed in a way that recognises the needs of users of the resource, particularly those who rely on it for their livelihood.
4. **Opportunity to be heard** – a person with an interest in the fishery has the opportunity to participate in developing the management regime for that fishery through a transparent process.
5. **Rights of existing concession holders to be recognised** – this means that management arrangements must have due regard to the historical access rights of each class of concession holder in the fishery.
6. **Best available information** – any allocation recommendation should take account of all relevant information.
7. **Integrity of fisheries management arrangements** – allocation decisions should be consistent with legislative requirements and other fisheries management objectives.

One of the most important considerations when designing an allocation arrangement is to seek to minimise impact on the relative economic position of each eligible endorsement. It may not be possible to design an allocation formula that has no impact on the relative economic positions of operators, but a conscious attempt should be made to implement this principle. Generally accepted allocation principles outline that management agencies must develop a reasonable and justifiable approach to the issue of minimising wealth redistribution effects.

8.3 Ministerial Announcements and Decisions

The IAP considered all Ministerial announcements and decisions made relating to the *Ocean Trawl - Southern Fish Trawl Restricted Fishery* as well as broader NSW Government fisheries policy statements.

8.4 Data Availability and Reliance

In the absence of any other comprehensive data set, the IAP has relied on the data provided by the Department, which reflects the information in official logbooks, recorded landings and fishing effort, in developing its advice on recommended quota allocations.

The IAP acknowledges advice from the DPI that the Department's data remains subject to ongoing validation, including as a result of the administrative review process for fishing activity summaries that is currently underway, but that it is unlikely that any changes will be significant enough to affect the advice of the IAP.

Provisions of the Act establish obligations on fishers to make and submit accurate fish records.

9. Independent Allocation Panel Process

The IAP process was as follows:

1. The DPI provided reference to background papers and presented a technical brief in October and December 2017 that included details on:
 - Government policy decisions over time in relation to share management in NSW;
 - existing management arrangements (including available data) in the *Ocean Trawl - Southern Fish Trawl Restricted Fishery*;

- existing fishing businesses and endorsement holdings within the scope of the fishery; and
 - past correspondence, industry meeting decisions, published management guidelines and other written communication for the fishery.
2. The IAP consulted directly with the holders of endorsements, other stakeholders and other person/s or organisations with appropriate knowledge or experience to assist the allocation process. Copies of all written correspondence from the IAP to eligible endorsement holders up to, and including the Draft IAP Report, is listed at Appendix 6.
 3. Written submissions were encouraged and a closing date set for 16th April 2018.
 4. Written submissions from industry received in response to the draft ToR were also made available to the IAP as many were relevant to the consultation process.
 5. The IAP identified and obtained additional necessary data and documentation to support their considerations.
 6. A Draft IAP Report, including recommendations, was circulated to eligible endorsement holders and other stakeholders for comment by 21st May 2018. Other submissions received in relation to generic issues for quota allocation were also considered for the Draft IAP Report.
 7. Eligible endorsement holders and other stakeholder feedback on the Draft IAP Report was considered by the IAP together with any other information deemed appropriate.
 8. A Final Report from the IAP was presented to the Minister by the closing deadline of 29th June 2018.

9.1 IAP Consultation Meetings

Written notification from the IAP was circulated in December 2018 to all eligible endorsement holders in the *Ocean Trawl - Southern Fish Trawl Restricted Fishery*. Individual face-to-face meetings between the IAP and eligible endorsement holders were held to discuss the matters set out in the ToR.

Consultation meetings were held over several days in Sydney, Wollongong and Nowra. Consultation meetings were also scheduled in Eden and Bermagui, however, due to only one endorsement holder being available in each location, these consultations instead took place over the telephone. Further teleconferences were held with individual eligible endorsement holders where a face-to-face consultation was not possible.

All persons attending were provided access to copies of the approved ToR and given the opportunity to participate in discussions, make oral submissions and table documentation or written submissions.

All persons attending were informed that a draft written record would be made of the meeting and would be provided to them subsequent to the meeting seeking their confirmation of the content or any required amendments. The confirmed/amended record was provided to the IAP.

Approval was also sought from persons attending to allow for an electronic recording of the meeting to assist the IAP with greater accuracy in the preparation of the written record of the discussions. Attendees were also offered a copy of the recording.

The issues raised in these face-to-face consultations are included, in no particular order, in the summary of issues raised from all Round 1 consultations set out in Appendix 1.

9.2 Written Submissions

Correspondence to eligible endorsement holders in the *Ocean Trawl - Southern Fish Trawl Restricted Fishery* was provided through a wide range of sources including SMS, email, general postal mail and links to the DPI and Grant Thornton Australia Ltd websites.

Addresses for IAP correspondence were obtained from the fishing business contact details for eligible endorsement holders in the *Ocean Trawl - Southern Fish Trawl Restricted Fishery* registered with the DPI at the time of writing.

9.2.1 Round 1 – Opening Consultations - Written notification to all eligible endorsement holders dated 28th February 2018 invited written submissions to the IAP by 16th April 2018.

The IAP received a total of four (4) written submissions in relation to the *Ocean Trawl - Southern Fish Trawl Restricted Fishery* quota share allocation ToR and the issues raised in these submissions is included, in no particular order, in the summary of issues raised from all Round 1 consultations set out in Appendix 3.

The written submissions are held on behalf of the IAP, under strict confidence, at the Sydney office of Grant Thornton Australia Ltd.

9.2.2 Round 2 – Written Submissions responding to this Draft IAP Report

Written notification to all eligible endorsement holders dated 30th April 2018 was circulated together with the Draft IAP Report and encouraged written submissions to the IAP by 21st May 2018.

The IAP received two (2) written submissions in relation to the *Ocean Trawl - Southern Fish Trawl Restricted Fishery* Draft IAP Report. These submissions were from the Professional Fishermens' Association on behalf of their SFT members and AFMA. A summary of issues raised from all Round 2 consultations set out, in no particular order, in Appendix 1.

The written submissions are held on behalf of the IAP, under strict confidence, at the Sydney office of Grant Thornton Australia Ltd.

9.3 Final IAP Report

The IAP considered the Round 2 written submissions received following circulation of the Draft IAP Report together with further information as appropriate and submitted their Final IAP Report to the Minister for Primary Industries on 29th June 2018.

10. IAP Considerations of Key Issues Raised During the IAP Process

This section outlines the key issues identified by the IAP from the myriad of issues raised in consultations, Round 1 written submissions and written submissions received in relation to the Draft IAP Report for the *Ocean Trawl - Southern Fish Trawl Restricted Fishery*.

Note: Given that there are no 'access shares' issued in the *Ocean Trawl - Southern Fish Trawl Restricted Fishery*, the IAP has accepted that the 'restricted fishery endorsement' is the current legislative access right for the fishery.

The IAP considered this access right to the *Ocean Trawl - Southern Fish Trawl Restricted Fishery* in relation to the SARC 2015 conclusion that an equal allocation based on existing access shares would place an '*unacceptable and unintended substantial financial burden on a relatively small number of fishing businesses who currently account for a high proportion of the catch of those species*'.

The issues have been grouped below, summarised and IAP comments included.

10.1 Use of Restricted Fishery Endorsement as Allocation Criteria

The management regime currently applied limits the number of endorsements that can access the *Ocean Trawl - Southern Fish Trawl Restricted Fishery* and allowed endorsed fishers to continue to take all catch while operating within a suite of management controls. Beyond being able to afford to purchase the endorsement, it was the view of a number of fishers that they did not see the capital value and the capital growth of their investment being of paramount importance. Rather the paramount value of the endorsement is as a mechanism to continue to go fishing for the purpose of generating income, as well as for lifestyle reasons.

In the *Ocean Trawl – Southern Fish Trawl Restricted Fishery*, to be allocated an endorsement, one had to own a NSW licensed fishing boat and:

- hold a Commonwealth South East Fishery fish trawl permit; or,
- have submitted at least six (6) recorded landing returns in any one of the years from 1986 to 1990 that demonstrates that the person caught not less than 25 tonnes of fish species by fish trawl in designated zones.
- The listed species were as defined in the regulations (Clause 187 (Part 9, Division 2) of the *Fisheries Management (General) Regulation 1995*).

If you were not fully active in the fishery, or not active at all, you still could receive an endorsement. Many endorsements were given to people who did not have a consistent or significant, demonstrated interest in the fishery but merely held a NSW boat licence and a Commonwealth SET fish trawl permit. This has resulted in more endorsements than active fishers.

Some fishing business owners put the case that they had been issued an endorsement and that guarantees access to a proportion of the biomass of the fishery, regardless of whether they chose to fish. These fishers are of the view that everyone's investment is on the same restrictive entry fishery basis and everyone has the ability to use this investment as they see fit. They believe that it should not matter that one person has used their endorsement to catch fish and others have not.

Concern raised by some fishers was that there will be a substantial redistribution of wealth if recorded landings were now a substantive part of the allocation criteria. Their view was that restricted fishery endorsements were granted equally.

Fishermen explained that knowing they had the endorsement it was assumed they would be safe to catch under their endorsement any time in the future and only ever needed the endorsement to access the fish stocks as they deemed fit. The concept of validated catch history was abandoned by the Department in February 2007.

Active fishermen argued they had made large investments in this fishery, through purchasing an endorsement (where applicable) required to go fishing, and a vessel and fishing gear capable of handling the fishing conditions and distances required to access this fishery. They then invested time and intellectual property in undertaking fishing activities and have forgone (wholly or partly) economic activities in other fisheries or other industries. Their view was that if the existing active fishers do not get an amount similar to their current share of the catch in the quota allocation, it is not going to be caught at all in the future because there is not enough money in the fishery for them to buy the necessary quota to get back to their current levels of catch. Although not quantified, this would have potential flow on impacts to local and regional economies including fish co-operatives, retail food service outlets, service industries and tourism.

The ToR for *Ocean Trawl – Southern Fish Trawl Restricted Fishery*, outlined in Guiding Principle 5, required the IAP to take into account, where relevant, existing rights held by others including shareholders in NSW commercial fisheries and holders of Commonwealth Statutory Fishing Rights (SFRs). While the IAP can take (and has taken) account of Commonwealth SFR holders, it cannot provide recommendations for a Commonwealth managed fishery and in particular one where the allocations within have been long determined.

The IAP is charged with providing advice on the allocation of quota to eligible endorsement holders in the *Ocean Trawl – Southern Fish Trawl Restricted Fishery*. Where quota is to be issued for a particular species that is caught in more than one NSW fishery or share class (i.e. flathead, whiting, ocean perch, silver trevally and gemfish) the IAP recommends that the initial amount of quota/quota shares allocated for each species in each fishery or share class is proportional to the recorded landings of that species for each fishery or share class compared to the total recorded landings of that species within the agreed criteria period.

The final decision in regard to access rights and quota shares in *Ocean Trawl – Southern Fish Trawl Restricted Fishery* and their relationship with existing rights and management arrangements held by others will rest with respective governments. This will include whether new quota and access rights are tradeable across jurisdictions. The IAP recommendations provide for catch quota in line with existing Commonwealth management arrangements for the SESSF.

AgEconPlus Consulting (2015)⁸ set out that with one of the aims of sustainable management of the NSW commercial fisheries being a viable commercial industry, there is a prima facie case for structural reforms. However, proposals to link shareholdings to catch/effort are confounded by the major distortion within most share classes where a flat share allocation does not reflect the fact that only a small proportion of FBs land the majority of the catch. Many individual shareholders would require substantially more than their present number of shares to allow them to maintain their current level of catch. Unless these individuals could afford to buy that many shares, linking shares would effectively force them out of the fishery.

The IAP considers that this same distortion would apply if a flat allocation was introduced across endorsements held in the *Ocean Trawl – Southern Fish Trawl Restricted Fishery*.

In their final report to Government in 2015⁹ the SARC reached the conclusion that for several species in some fisheries the NSW reform program and exit grant would be unable to deal with the level of distortion in those share classes. The SARC concluded that *‘an equal allocation based on existing access shares would place an unacceptably high financial impact on a relatively small number of active operators fishing businesses who currently account for a high proportion of the catch of those species’*.

The IAP did specifically consider allocation based only on endorsements held (which is an equal allocation approach) however for the reasons discussed above it was not recommended. Equal allocation is not considered equitable as the impacts on active fishing businesses are to the extent that their ability to continue catching product at current or close to current levels would be significantly compromised.

The IAP did analyse the available data early in its deliberations and this confirms that an allocation based solely on the endorsements would lead to active businesses having

⁸ AgEconPlus Consulting, Economic Analysis of NSW Commercial Fisheries Reform Package (June 2015)

⁹ Final Share Linkage Recommendations, NSW Structural Adjustment Review Committee, Ian Cartwright, Sevaly Sen and Mary Lack (30 September 2015), p2.

insufficient quota to maintain catch at or near current levels, while inactive businesses may receive what could be perceived to be a windfall.

The IAP does not support that the new quota allocation in the *Ocean Trawl – Southern Fish Trawl Restricted Fishery* be based solely on equal allocation across existing restricted fishery endorsements held based on the IAP assessment that such an allocation basis would place an unacceptably high financial impact on a relatively small number of active operators.

10.2 Use of Reported Landings as Allocation Criteria

Recorded landings and/or fishing effort are the measure of fishing activity. Typically, a fishing business that has a greater economic reliance on a particular fishery has a greater level of fishing activity in that fishery. Recorded landings are a typical tool for allocating access to fisheries. In most jurisdictions recorded landings is “attached” to the fishing entitlement (however defined). That is, when a business purchases the fishing entitlement from another business it also purchases the fishing recorded landings. The recorded landings attributed to a fishing entitlement has a value in the market and that value is not extinguished through trading.

The IAP has been advised by DPI that, in line with Government policy since 2007 recorded landings have not transferred with an *Ocean Trawl – Southern Fish Trawl Restricted Fishery* endorsement, regardless of whether the endorsement was transferred as part of a complete fishing business or separate to all other components of a fishing business.

Fishers working to a diversified fishing strategy (i.e. fish in multiple fisheries over a season) to spread the fishing effort and financial risk were concerned that they may now be at a disadvantage if recorded landings is applied as the sole criteria in a species. These fishing businesses also argued that they held the required access endorsement to operate in a fishery and there was no indication from Government that recorded landings was to be a criteria for future access to each fishery. They argued that if it was known that recorded landings was to be a factor they may have changed their diversified fishing strategy. In their view using recorded landings rewards those who have put pressure on the resources to the point where restrictions are now required.

The IAP view is that fishing business owners make business decisions to maximise the return from their investment and reduce the risk to their overall investment. A diversified fishing strategy is a deliberate decision to spread the risk across a range of fisheries and take advantage of the best fishing option or maximise efficiency in use of infrastructure in any season. In allocation decisions based on recorded landings, diversified fishing businesses would receive allocations across a number of fisheries that would reflect their diversified fishing activities which should allow them to continue to fish across a number of fisheries. In contrast, a fishing business that had put in the same amount of investment and fishing activity overall but directed into a single fishery will receive an allocation in that single fishery only. Fishers may hold shares/endorsements in a range of sectors subject to different linkage arrangements (eg. minimum shareholding, effort, quota) as well as in Commonwealth fisheries. Thus, regardless of any allocation of new quota under consideration by the IAP, potential for diversification will remain.

A case was made to the IAP that recorded landings should not be taken into consideration for the current allocation as it had already been factored into the initial restricted fishery endorsement allocation. In response to this the IAP considered the following. First, and as described previously, the initial issue of restricted fishery endorsements utilised a coarse and imprecise measure of fishing activity. This initial allocation did not utilise the amount of an individual's recorded landings in its determination. Second, the initial allocation is now very dated. Fishing businesses may have changed substantially during this period for a number of reasons, and the historic restricted fishery endorsement issue may not reflect contemporary

fishing activity. These two points do not invalidate the incorporation of existing endorsements in the IAP's allocation recommendations for this fishery, but it further mitigates, in the opinion of the IAP, the sole use of existing endorsements in allocation in the present instance.

The decision to not transfer catch history with a transfer of and endorsement was a policy decision of the NSW Government in 2007. This is outside the ToR of the IAP. As discussed previously the use of catch history for allocation is widely used in many jurisdictions. The IAP can understand many of the concerns regarding tracing recorded catch when endorsements have been traded. The NSW approach for tracing catch history differs from other jurisdictions. This difference however in the view of the IAP and in the absence of any other valid approach or data sources for the IAP to use, does not invalidate its use.

One fisher raised the fact that he is a long-term endorsement holder in the fishery using otter board fish trawl gear. In the last two seasons he has converted his operation to a Danish Seiner (as authorised by his endorsement) and has targeted whiting. It is his view that if recorded landings are used as an allocation criteria he will end up with quota for species that he cannot catch using his "new" fishing technique. Other fishers put the case that the decision to change to Danish Seine was made with all the information about proposed allocation of quota shares publicly available. The IAP takes the view that should this be the allocation outcome this fisher will be in a position to sell or lease quota for species required by otter board trawl operators to secure the additional quota should he require.

The ToR for *Ocean Trawl – Southern Fish Trawl Restricted Fishery* outlined in Guiding Principle 5 that the IAP take into account, where relevant, existing rights and level of activity to be recognised with due regard to the historical rights and activity of participants in the SFT fishery, subject to any individual history or catch deemed through enforcement and compliance to be in contravention of regulations (which should be excluded from any allocation decision).

The Government made the decision to assess how to allocate quota in *Ocean Trawl – Southern Fish Trawl Restricted Fishery* by seeking the advice of the IAP. It is important to note that for the other shares classes for which the IAP is providing advice there was a requirement to address the distortion that would take place among shareholders if an equal allocation based on existing access shares was applied. The identified distortion was that equal allocation on shares would create an unacceptably high financial impact on a relatively small number of endorsement holders who are actively fishing and who currently account for a high proportion of the total recorded landings of those nominated species.

The IAP have concluded that this same distortion would be found in the *Ocean Trawl – Southern Fish Trawl Restricted Fishery* if equal allocation of quota based on existing endorsements was applied.

The IAP recognises recorded landings will assist with distinguishing the relative economic position of fishers over a period of time but does not support the sole use of recorded landings in a new quota share allocation either. The IAP concluded that allocation in this fishery should be on a combination of both restricted fishery endorsement and recorded landings.

It is the view of the IAP that any individual history or catch deemed through enforcement and compliance to be in contravention of regulations should have already been dealt with appropriately by the Department and the outcome reflected in the recorded landings for endorsement holders made available by the Department to the IAP.

10.3 Recorded Landings Qualifying Period

The Department provided to the IAP recorded landings and effort data for the period 1997/98 to 2016/17. The data provided information on the recorded landings and effort (to the species level) linked to a fishing business number and the number of endorsements currently held by a fishing business in the *Ocean Trawl – Southern Fish Trawl Restricted Fishery*.

It is noted that due to changes in the format of the data compiled between 1997/98 and 2016/17, data was provided for two distinct time periods, being 1997/98 to 2008/09 and 2009/10 to 2016/17. The IAP was advised that changes in the data structure used by the DPI for reported landings commenced from July 2009. This was the point at which all reports included a direct link between each species landed and the endorsement type that grants the authority to take that fish. The DPI advised that using records from prior to July 2009 to attribute catch to an endorsement type may have to include consideration of the methods reported, any co-caught species or even the season of fishing and these additional factors would severely compromise and complicate any analyses and subsequent interpretation.

In determining any allocations based on recorded landings choosing which years to utilise within the available time series is an important consideration. Too short a time period may not pick up annual variations in recorded landings driven for example by changes in stock size or significant weather events (e.g. flooding). However, it can also be argued that the effect of such annual factors is reduced because allocation decisions using recorded landings examine proportions rather than catch volume *per se*. In a good fishing year, recorded landings by an individual business is likely to be higher than in a poorer fishing year, however the proportion of that individual's recorded landings relative to the overall recorded landings in a fishery as a whole in any year may not substantially differ in all cases.

Recorded landings and effort data from a long time back may not wholly reflect contemporary activity in a fishery including changes to seafood markets, changes to fisheries management (e.g. trip limits, size limits, recreational fishing havens) and environmental management decisions impacting fisheries (e.g. marine parks). Likewise, very recent recorded landings and effort data may be influenced by knowledge of fishermen of an impending allocation process or other significant structural reform in the fishery.

On balance, the IAP considers that the data provided by the Department for the period 2009/10 to 2016/17 (inclusive) represents the best available data for use by the IAP.

Fishers presented a view that the IAP must apply the same formulas in the *Northern Fish Trawl Fishery* and the *Southern Fish Trawl Fishery*. Currently during any one trip they potentially work in both fisheries and the catches for both fisheries are reported as a lump sum in the one tick box. These fishers are not sure how much of their history has been allocated to which fishery. They referred to the fact that in the Commonwealth one can nominate which fishery the catch should be recorded.

Equally, other endorsement holders held the view that the opportunity was there for all fishermen to allocate their catch to the fishery of their choice and they should live with that decision. They put the case that everyone has had ample time to verify their recorded landings with the Department. They argued the fishermen will be recognised in the fishery in which their catch ended up if recorded landings are applied as an allocation criteria. In effect, the catch is not "lost" as such.

The Department has confirmed that since 2009/10 the catch records / logbooks completed by fishers have provided fishers the opportunity to report catches by sector (share class or SFT Fishery).

Independent of the IAP process, the Department is undertaking a data validation process with industry. The IAP is comfortable that it can make recommendations on the data provided which currently represents the best available data. DPI confirms that it will be updating fishing activity records based on the outcome of the administrative review process and that these statutory records will be available for use when the Commonwealth allocates quota.

However, when the Commonwealth does implement an allocation of quota in this fishery, it will presumably be on the relevant validated data.

As mentioned earlier where quota is to be issued for a particular species that is caught in more than one NSW fishery or share class (i.e. flathead, whiting, ocean perch, silver trevally and gemfish) the IAP recommends that the initial amount of quota/quota shares allocated for each species in each fishery or share class is proportional to the recorded landings of that species for each fishery or share class compared to the total recorded landings of that species within the agreed criteria period. The IAP has noted that there is a difference between the criteria period recommended in their respective IAP Draft Reports for the nominated fish trawl species and the DPI public consultation paper on the transition of the *Ocean Trawl - Southern Fish Trawl Restricted Fishery* to Commonwealth management¹⁰.

The difference is brought about by the NSW data recording is based on financial years and AFMA data recording based on calendar years. The IAP criteria period recommended in the IAP Draft Report was based on the data provided by DPI and the objective of maximising the opportunity for active fishers to maintain their catch, as far as is practical, to their current levels.

Should DPI be of the opinion that they can provide similar quality data in a calendar year format for the nominated NSW fish trawl species, the IAP preference is to amend the criteria period to calendar years 2009 to 2017 (inclusive) for the *Ocean Trawl – Inshore / Offshore Trawl share class*, the *Northern Fish Trawl share class* and the *Southern Fish Trawl Restricted Fishery* to maximise the opportunity for active fishers to maintain their catch, as far as is practical, to their current levels. Given this preference the IAP would recommend that the transition process for the *Ocean Trawl - Southern Fish Trawl Restricted Fishery* to Commonwealth management adopt the same criteria periods.

The IAP notes the investment warning (April 2017) which sets out that '*Investment, activation of latent SFT endorsements or increased fishing in response to any changes to the trip limits that may occur, will not guarantee future access and may impact the longevity of the changes being considered*'. After further analysis of recorded landings by month, the IAP is of the view that any existing fisher or latent endorsement in the *Ocean Trawl – Southern Fish Trawl Restricted Fishery* responding to announcements of new management proposals will have received little if any long term benefit within the 8 months to end 2017 calendar year and that any impact on the IAP recommended allocation basis set out in the Draft Report is immaterial.

There was concern raised that using historical recorded landings as a basis for the allocation and future TAC setting for the *Ocean Trawl – Southern Fish Trawl Restricted Fishery* was not acceptable due to the past restrictions on minimum sizes for some species (and differences in requirement between state and Commonwealth waters), for other species applying trip weight limits and also failure to incorporate discard rates. Fishers referred to the

¹⁰ Public Consultation Paper - Transitioning the NSW Southern Fish Trawl Restricted Fishery to Commonwealth management (NSW DPI, March 2018)

current consultation paper¹¹ that indicates that if the *Ocean Trawl – Southern Fish Trawl Restricted Fishery* comes under Commonwealth management the governments will be using the TAC figures outlined in this paper that are based on historical fishing performance. They felt that if transition to Commonwealth management was the preference of governments then the *Ocean Trawl – Southern Fish Trawl Restricted Fishery* stock assessment must be made on data gathered from commercial fishing without the fishery restrictions currently applied (neither of which apply in the Commonwealth trawl fishery). These restrictions had limited the commercial viability for many fishers who had to move out of the fishery to maintain economic viability.

A considerable level of support was provided to the IAP during consultations calling for Government to operate the fishery for a period of time (two years minimum was raised on several occasions) without application of the restrictions of minimum sizes and trip weight limits for certain species. With a size limit imposed of 30cm on silver trevally one fisher informed the IAP his discard rates have been up to 90% with the fish only measuring 1-2cm under the legal length. He explained that it is frustrating to see a Commonwealth fisher working just outside the 3nm line catching 3 tonnes and keeping all of it but he (working inside the 3nm line) has to discard 3 tonnes when the fish is exactly the same size.

These fishers supported future TAC calculations based on scientific measures gathered from allowing commercial fishing in the *Ocean Trawl – Southern Fish Trawl Restricted Fishery* with no artificial restrictions for an agreed period of time. They argued they should be given the opportunity to prove up the fishery – like New Zealand did with their scampi fishery.

In response to the IAP Draft Report the Professional Fishermen's Association (PFA) advised that the majority of their members are supportive of the transitioning of the *Ocean Trawl – Southern Fish Trawl Restricted Fishery* governance to AFMA. However, the PFA outlined that their members do not want to proceed with the transition if issued quota based on catches incorporating the existing restrictions on fishing while significantly increasing their management fees. The PFA set out members strong concerns regarding the proposed quota arrangements and the process used to determine the number of Commonwealth statutory fishing rights (SFRs) that will be granted to *Ocean Trawl – Southern Fish Trawl Restricted Fishery* endorsement holders. The PFA specifically expressed that it is an unfair process used by AFMA to determine the overall allocation of catch to the *Ocean Trawl – Southern Fish Trawl Restricted Fishery* utilising incorrect discard determinations.

To be clear there were also several endorsement holders who did not support this position to 'test fish' for a period of years. These fishers argued that all endorsement holders have had the same opportunity to fish under the same rules and some have made a viable business while others have made investment choices in larger vessels and other fishery entitlements that make it difficult for them to fish commercially in the *Ocean Trawl – Southern Fish Trawl Restricted Fishery*.

The TOR for the *Ocean Trawl – Southern Fish Trawl Restricted Fishery* does not allow the IAP to make a formal comment on this industry proposal to 'test fish' for a period of time. The IAP has listed this matter in section 10.5 for NSW Government consideration. The IAP does consider that any management regime should very clearly aim to reduce wastage through discards taking into consideration other relevant matters.

¹¹ Public Consultation Paper - Transitioning the NSW Southern Fish Trawl Restricted Fishery to Commonwealth management (NSW DPI, March 2018)

10.4 Use of Investment as Allocation Criteria

Some fishermen and stakeholders suggested that investment in the fishery should be considered in the allocation decision. In some cases this was raised in relation to investment in endorsements, boat capacity and fishing gear.

The case was presented by one fisher to the IAP that if quota shares are introduced, allocation should be based on hull units and recent recorded landings (from the year 2000). At the time this fisher made additional investments (i.e. kept the same length vessel but increased hull units), the DPI informed fishers that recorded landings history was relinquished once shares were issued and he did not see any investment warnings that recorded landings history was important for future management arrangements (including allocation). It was argued that hull units should be considered in this fishery because this fishery has a range of species and having a larger hull unit results in larger catching capacity. It was further argued that everyone in the industry had the opportunity to invest in their boats. Others argued that hull units should not be taken into account and your recorded landings history is the real evidence of your activity regardless of whether you catch it with a 10m boat or a 50m boat.

Kaufmann *et al.* (1999) critically reviewed alternative allocation approaches, including whether allocation should be based on the share of an operator's profit in the fishery or investment. It was identified that there was difficulty in obtaining relevant factual information on profitability and/or investment. This is consistent with the IAP's consultation findings.

It is also important to note that operators may not be profitable despite a considerable investment of money, time and effort. Consequently, Kaufmann *et al.* (1999) identifies that specifically using investment as a means of allocation can produce redistribution consequences that are difficult to rationalise. It can lead to overcapitalisation of the catching sector, which may in turn compromise long term sustainability, and may be biased towards businesses that have invested in land-based infrastructure such as processing businesses.

While the IAP has discussed the relative levels of investment amongst operators in the fisheries, it does not consider it appropriate or practical to have specific allocation criteria based on investment.

10.5 Management Issues for DPI Consideration

Many issues were raised with the IAP during consultations and within written submissions that were outside the ToR for the *Ocean Trawl – Southern Fish Trawl Restricted Fishery*.

The IAP has listed these issues in the Summary of Submissions for the information of DPI at Appendices 1 and 3.

11. Exceptional/Special Circumstances

The IAP was notified of several personal circumstances that, in the view of the individuals concerned, may have a real bearing on the allocation process as it relates to those individuals. The IAP notes that irrespective of the final form of allocation process, there will be differences in outcomes at the individual level.

Throughout the consultation process fishers and other stakeholders raised the issue of needing to consider exceptional circumstances where fishing activity for a period of time was reduced below a long-term average due to illness or another factor beyond the fishing business holder's control.

In the implementation of any allocation arrangements activities a fishing business operator who chooses to take periods of time working in another fishery or working in employment

outside the fishing industry is not considered an exceptional circumstance. Neither are factors that may impact the whole fleet, such as weather or currents.

An approach in an allocation process to factor in collectively what could be exceptional circumstances is to remove a period of time from the data period under consideration (e.g. the worst year or the worst two years). In doing so, it should be recognised that the reason for a nil or low catch in a given year cannot be identified from the data. For example, it may be due to an injury or it may be due to fishing in another fishery. Nonetheless it can address the issue of lost fishing time due to illness or injury, albeit imperfectly. Fishing business holders may overestimate the benefit to them of removing part of the data period which represents their worst catch because the analysis is relative. That is, all fishing business operators have a data period removed, not just one. Nonetheless, changes at the margin of allocation are expected from removing a data period that represents an individual business's worst year or years of catch.

In response to these submissions, the IAP has undertaken a further analysis to compare (See Appendix 2):

- Allocation based over the whole data period (2009-10 to 2016-17);
- Allocation based over the period 2009-10 to 2016-17 with the worst single catch year removed from the analysis; and
- Allocation based over the period 2009-10 to 2016-17 with the worst two catch years removed from the analysis.

Using data available, the IAP has presented outcomes from fishing businesses that represent a range of different catch levels. An analysis that removes a year representing the worst catch will generally see an allocation:

- reduced for a fishing business that have consistent high catch across the period examined;
- increased for a fishing business that has a high catch but one that is variable between years; and
- little changed for a fishing business with low catch.

The magnitude of the difference for the first two points directly above further increase the more worst years you choose to remove from the analysis.

For the *Ocean Trawl – Southern Fish Trawl Restricted Fishery* the magnitude of the changes from the analyses are compared in the tables in Appendix 2.

Overall, the IAP considers that changes in allocations from removing the single worst year from analysis are at the margin for individual businesses but that the approach does provide a systematic way of addressing concerns raised by those who experienced a year of low or below average catch. For that reason, the IAP has recommended the use of recorded landings for the period 2009/10 to 2016/17 but removing the lowest catch year for all fishing businesses. The IAP is not in favour of removing more than one year of catch due to the impact it will start to have on those with consistent recorded landings over the criteria period.

The IAP notes that while this approach may go some way toward addressing exceptional circumstances, there may still be individuals who feel their particular circumstances have not been adequately addressed

Where these circumstances are outside the purview of the IAP ToR, and in accordance with best practice in other allocation processes, the IAP did not provide comment. However, the IAP would wish to alert the Minister and Department that a number of individuals are likely to

provide cases of exceptional or special circumstances when the final decision on allocation is made by Government.

12. Independent Allocation Panel Findings and Recommendations

12.1. Proportional Allocation of Fish Species Between Share Classes and Fisheries

The ToR for the *Ocean Trawl – Southern Fish Trawl Restricted Fishery* outlined in Guiding Principle 5 that the IAP take into account, where relevant, existing rights held by others including shareholders in NSW commercial share classes and holders of Commonwealth Statutory Fishing Rights (SFRs).

Where catch quota shares are issued for a particular species in more than one NSW fishery or share class (i.e. flathead, whiting, ocean perch, silver trevally and gemfish) the IAP recommends that the initial amount of quota/quota shares allocated for each species in each fishery or share class is proportional to the recorded landings of that species for each fishery or share class compared to the total recorded landings of that species in all NSW fisheries and share classes within the recommended criteria period.

Should DPI be of the opinion that they can provide quality data in a calendar year format for the NSW fish trawl species nominated in the IAP ToR, the IAP recommends the criteria period to calendar years 2009 to 2017 (inclusive) for the *Ocean Trawl – Inshore / Offshore Trawl share class*, the *Northern Fish Trawl share class* and the *Southern Fish Trawl Restricted Fishery* to maximise the opportunity for active fishers to maintain their catch, as far as is practical, to their current levels. Given this recommendation the IAP would encourage the transition process for the *Ocean Trawl - Southern Fish Trawl Restricted Fishery* to Commonwealth management adopt the same criteria periods.

Expressed as a formula, the following example outlines the way to calculate a specific species quota share allocation proportion for the *Ocean Trawl – Southern Fish Trawl Restricted Fishery*

$$\frac{\text{Sum of Total Recorded Landings of a specific species for SFRs for calendar years 2009 to 2017 (inclusive)}}{\text{Sum of Total Recorded Landings of all NSW fisheries and/or share classes catching that specific species for calendar years 2009 to 2017 (inclusive)}}$$

12.2 Allocating Species Quota in the Ocean Trawl – Southern Fish Trawl Restricted Fishery

The IAP findings are based on the information provided by DPI on the recorded landings of individual species and the distribution of those recorded landings amongst fishing businesses in the *Ocean Trawl – Southern Fish Trawl Restricted Fishery*.

There are twenty-three (23) fishing businesses with an endorsement in the *Ocean Trawl – Southern Fish Trawl Restricted Fishery*. The vast majority (approximately 90%) of recorded landings in the fishery over the period 2009/10 to 2016/17 were of eastern school whiting (48%), combined flathead species (22%) and silver trevally (21%). However, the number of differing species that are caught is large albeit with the vast majority caught in very small quantities.

Nineteen (19) of the twenty-three (23) fishing businesses with a current endorsement in the *Ocean Trawl – Southern Fish Trawl Restricted Fishery* captured eastern school whiting, flathead and silver trevally. It is noted that an additional fishing business caught these species during the period 2009/10 to 2016/17, however, the fishing business was cancelled

during the recent share trading market and the endorsement transferred to another current fishing business. In line with Government commitments at the time, it is assumed that the recorded landings of the cancelled fishing business are able to be transferred to the current fishing business in an allocation process that takes recorded landings into consideration.

In the case of eastern school whiting, of the nineteen (19) fishing businesses with recorded landings of the species, three (3) fishing businesses each accounted for between 10-20% of the recorded landings and were responsible for the take of approximately 46% of the species over the period examined. A further five (5) fishing businesses each accounted for between 5-10% of the recorded landings and were responsible for the take of approximately 41% of the species. The remaining eleven (11) active fishing businesses each accounted for less than 5% of the recorded landings, with some recording very low levels of catch, e.g. less than one tonne, across the whole of the 8 year period examined.

In the case of flathead, of the nineteen (19) fishing businesses with recorded landings of the species, four (4) fishing businesses each accounted for between 10-20% of the recorded landings and were responsible for the take of approximately 51% of the species over the period examined. A further five (5) fishing businesses each accounted for between 5-10% of the recorded landings and were responsible for the take of approximately 32% of the species. The remaining ten (10) active fishing businesses each accounted for less than 5% of the recorded landings, with some recording very low levels of catch across the 8 year period examined.

In the case of silver trevally, of the nineteen (19) fishing businesses with recorded landings of the species, one (1) fishing business accounted for the take of approximately 28% of the species over the period examined. There were two (2) fishing businesses each accounting for between 10-20% of the recorded landings and were responsible for the take of approximately 27% of the species. A further three (3) fishing businesses each accounted for between 5-10% of the recorded landings and were responsible for the take of approximately 22% of the species. The remaining thirteen (13) active fishing businesses each accounted for less than 5% of the recorded landings, with a number recording very low levels of catch across the whole of the 8 year period examined.

The distribution of catch across the remaining species to be considered under the IAP's ToR varied, and in the case of blue warehou, jackass morong, school shark and ocean perch species, there were 10 or less fishing businesses with recorded landings of these species over the period examined. The IAP noted however that combined, catch of these species made up less than 1% of recorded landings over the period 2009/10 and 2016/17, and therefore are unlikely to influence the relative economic position of those within the fishery, and as such, do not warrant a separate approach to allocation.

The IAP investigated several different allocation scenarios that included weighting both holding an endorsement and combinations of a fishing businesses recorded landings over the period 2009/2010 to 2016/2017.

Overall, a greater weighting applied to endorsements held results in a greater allocation to fishing businesses that have previously recorded minimal or nil catch for the main species in the fishery and a reduction in allocation to businesses that have high recorded landings for the main species.

On this basis, equal allocation based solely on holding an endorsement in the *Ocean Trawl – Southern Fish Trawl Restricted Fishery* will potentially create a redistribution of wealth to the extent that fishing businesses with current high catch and effort targeting the main species in this fishery may no longer be viable.

The IAP considered a series of recorded landings scenarios for each species and determined to use a combination of 20% for holding a restricted fishery endorsement for *Ocean Trawl – Southern Fish Trawl Restricted Fishery* and 80% for recorded landings for an individual fishing business in the fishery.

The IAP used the sum of recorded landings over the selected criteria period 2009/10-2016/17 (inclusive) in the scenarios considered.

IAP recommendations for allocation of species quota shares:

The IAP recommends that the allocation of quota shares for each species in the ToR for the *Ocean Trawl – Southern Fish Trawl Restricted Fishery* be calculated based on 20% on holding a current restricted fishery endorsement + 80% on recorded landings of that species for an individual fishing business in the fishery over the selected criteria period 2009/10 – 2016/17 (inclusive) but excluding the worst catch year.

Expressed as a formula, the IAP recommends that an eligible shareholder's quota share allocation for each specific species will be:

$$(20\% \times \text{Total number of endorsements held by an individual Fishing Business in the SFTRF})$$

Total number of endorsements in the SFTRF

+

$$(80\% \times \text{Individual Fishing Business's Total Recorded Landings of a specific species in SFTRF excluding the 'worst year' for the period 2009/10 to 2016/17 (inclusive)})$$

Sum of the Total Recorded Landings of a specific species *excluding the 'worst year'* for the period 2009/10 to 2016/17 (inclusive) for all current fishing businesses with endorsements in the SFTRF

The quota volume (i.e. kg) received in any given year, would therefore be the quota share multiplied by the total annual allowable commercial catch (TACC) for the species. The IAP notes that setting of the TACC is a separate process and is outside the scope of the IAP ToR.

13. Example of Application of IAP Recommendations

In response to comments received on its Draft Report, the IAP has provided an example of the application of its recommendations to an eligible endorsement holder. In doing so, the IAP stresses that these values are hypothetical and for illustrative purposes only.

The scenarios apply to where endorsements contribute 20% to the allocation and recorded landings contribute 80% to the allocation.

A simple worked example follows in a hypothetical fishery where there are 10 endorsements in total in the fishery and where the total annual catch over the period of time considered is 100 tonnes.

- Fishing Business 'A' holds one (1) endorsement of the total of 10 endorsements in the fishery equating to 10% of the total endorsements.
- Fishing Business 'A' has landed 5 tonnes over the criteria years considered for allocation, which equates to 5% of the total catch.

- The proportion based on the endorsement/s held contributes to 20% of the overall allocation (i.e. 10% of the 20%), which in percentage terms is 2%.
- The proportion of the catch contributes to 80% of the overall allocation (i.e. 5% of the 80%), which in percentage terms is 4%.
- The overall species quota share for Fishing Business 'A' would be 6% (i.e. 2% + 4%).

Thus, Fishing Business 'A' would receive 6% of the TACC in any given year.

Appendix 1 – Summary of Issues raised in Submissions to Draft IAP Report – Ocean Trawl – Southern Fish Trawl Restricted Fishery

Introduction

The Independent Allocation Panel (IAP) released its draft report on allocation of quota shares in the *Ocean Trawl – Southern Fish Trawl Restricted Fishery* on the 30th April 2018. The IAP invited submissions with the final submission date being 21st May 2018 to ensure adequate opportunities for submissions from shareholders and any other interested parties.

There were no written submissions received representing individual fishing businesses. The Professional Fishers Association (PFA) provided a submission with generic information regarding allocation and specifics on the *Ocean Trawl – Southern Fish Trawl Restricted Fishery*. A submission was also received from the Australian Fisheries Management Authority.

The Department of Primary Industries provided detailed suggestions for improving the structure of the report.

This response to submissions (RTS) documents the main issues raised in submissions and how the IAP has considered them, and if necessary, addressed them in their Final Report.

Where possible similar issues have been grouped under ‘themes’ for consideration by the IAP, but the specific individual issues raised have been still been listed.

Many of the issues raised were outside of the Terms of Reference (ToR) for the IAP and reflected issues relating to fisheries management more broadly – both past and present.

Theme: General Comments

Issue: *A great deal of discussion has occurred to convince the NSW Southern Fish Trawl Fishery of the benefits in being governed by AFMA, however, at this point in time, our PFA members have strongly advised that it appears to have had little benefit. There is an increase in business costs and a continued restriction of catches but no improved viability for the fishers. As far as the PFA can ascertain, if this transition is to proceed, a large number of the NSW Southern Fish Trawl Fishery will leave the industry – directly impacting on the supply of local seafood into NSW and specifically the Sydney Fish Market.*

Issue: *The PFA has also observed a significant amount of effort afforded to ensure that the Commonwealth’s South East Trawl Fishery is not inconvenienced or negatively impacted by this transition – and yet it is to be assumed that the NSW Southern Fish Trawl Fishery is to be subjected to all negative fall out in the process.*

Issue: *The PFA is unable to provide representation of its members on an issue that has polarised our industry. There are members who argue strongly for equal allocation and others for catch history. As has already been experienced by the IAP, there is a large variety of strong opinion within the industry regarding the appropriate allocation model to be adopted for the Southern Fish Trawl.*

Issue: *The arguments between members are focused on what would be considered fair and legally correct versus whether fishing businesses are able to remain viable and active without requiring it to further invest in purchasing additional shares above their allocated quota.*

Issue: *The PFA is not opposed to the proposed allocation model itself but, at this time, is unable to support any transition to Commonwealth arrangements under the current restricted harvest regime and increased costs.*

Issue: *The approach recommended by the IAP is reasonable and appropriate.*

IAP Response: The IAP understands that any allocation process is difficult for a representative body such as the PFA and that it is difficult if not impossible to come to a consensus position on the outcome. The difficulty of coming to any consensus is one of the key reasons why independent allocation panels are convened for the purpose of providing recommendations on initial allocations.

The decision to pursue the integration of the Commonwealth and State Fishery is a matter for the Commonwealth and NSW Governments. The role of the IAP is to propose an arrangement for allocation within the State fishery. It is not the role of the IAP to propose management arrangements for the fisheries as a whole.

Nonetheless, the IAP understands that the PFA and its members have concerns regarding the transitioning of the *Ocean Trawl – Southern Fish Trawl Restricted Fishery* to Commonwealth management, however, this is a fisheries management decision between the NSW and Commonwealth Governments and is outside the ToR of the IAP

Theme: Using existing Shares as Allocation Criteria

Issues: *There are concerns for those fishers who invested in shares based on DPI's previous recommendations.*

IAP Response: There are no shares allocated for the *Ocean Trawl – Southern Fish Trawl Fishery*.

Theme: Using Catch History as Allocation Criteria

Issue: *Discussions have highlighted the overall support of utilising strong catch history within the allocation model.*

Issue: *The Panel has not recommended ascribing discards to allocations although it is open for the Panel to make this recommendation. Any such recommendation would not align with the expected recommendation of the Southern Fish Trawl Transition Working Group (SFTTWG) regarding allocation to NSW SFTF as a whole. The expected recommendation (of the SFTTWG) will be for quota allocation to NSW to include the Commonwealth rate of discards for some species.*

IAP Response: The IAP recommendation is based on the recorded landing data provided by the NSW DPI for eligible endorsement holders in the *Ocean Trawl – Southern Fish Trawl Restricted Fishery* for the criteria period selected. The IAP has not recommended inclusion of discard rates in the formula for allocation of quota.

The Panel is of the view that the application or otherwise of discard rates in relation to the transition of the fishery to Commonwealth management is not within the IAP's ToR. The IAP also has no fit for purpose data upon which to base an objective consideration, although it does recognise that discard rates for some species will differ between what are currently the State and Commonwealth fisheries.

Issue: *Panel has made a preliminary recommendation to allocate quota shares (sic) based on the relative proportion of total landings taken by the SFT Fishery and each share*

management fishery using 'financial years' 2009/10 – 2016/17 (inclusive). NSW DPI consultation paper on transitioning to Commonwealth management proposes a different criteria period and methodology that involves taking the annual average catch over the 'calendar years' 2010 to 2016 (in line with AFMA catch recording process).

An option for the Panel's consideration would be to adopt this approach both for the SFT Fishery and also for determining an initial allocation of quota shares (amongst share classes) for the species or species groups to be quota managed in the NSW Ocean Trawl and Ocean Trap and Line fisheries that share access to the same species.

Issue: *The IAP recommends a criteria period of 2009-10 to 2016/17 inclusive. I note that the financial year 2016/17 falls in part after the investment warning issued in April 2017. I would appreciate further advice about why this was recommended rather than restricting to before this period.*

IAP Response: The IAP understands the difference between criteria periods in their Draft Reports for fish trawl species within the IAP ToR and the consultation paper for transition of the *Ocean Trawl – Southern Fish Trawl Fishery* to Commonwealth management. The IAP position on the criteria period selected was based on the availability and format of the data provided by DPI and the objective of maximising the opportunity for active fishers to maintain their catch, as far as is practical, to their current levels.

Should DPI be of the opinion that they can provide data in a calendar year format for the NSW fish trawl species within the IAP ToR, the IAP preference is to amend the criteria period to calendar years 2009 to 2017 (inclusive) for the *Ocean Trawl – Inshore / Offshore Trawl share class*, the *Northern Fish Trawl share class* and the *Southern Fish Trawl Restricted Fishery* to maximise the opportunity for active fishers to maintain their catch, as far as is practical, to their current levels. Given this preference the IAP would recommend that the transition process for the *Southern Fish Trawl Fishery* to Commonwealth management adopt the same criteria periods.

The IAP notes the investment warning (April 2017) which sets out that *'Investment, activation of latent SFT endorsements or increased fishing in response to any changes to the trip limits that may occur, will not guarantee future access and may impact the longevity of the changes being considered'*. After further analysis of recorded landings by month, the IAP is of the view that any existing fisher or latent endorsement in the *Ocean Trawl – Southern Fish Trawl Restricted Fishery* responding to announcements of new management proposals will have received little if any long term benefit within the 8 months to end 2017 calendar year and that any impact on the IAP recommended allocation basis set out in the Draft Report is immaterial.

Theme: Government Financial Support for Adjustment

Issue: *A range of recommendations have been discussed by PFA members including:*

- *Government fund the buyback of the latent licences which should then restrict the fishery to 15 licences – 8 licences to be removed*
- *Buying out the latent licences will ensure a cap on effort creep which will occur if these licences remain available.*

IAP Response: This issue is not within the ToR for the IAP.

Theme: Exceptional Circumstances

Issue: *As the report emphasises recorded landings across fisheries, it is unlikely that any*

existing rights held by others would be negatively impacted. It is important that this continues to be considered, including in the event that fishing businesses argue exceptional circumstances when the final allocation is provided by government.

IAP Response: The IAP has made recommendations and comments in relation to exceptional circumstances in section 11 of the Final Report.
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Theme: Fishery Management Alternatives

Issue: *The PFA recognises that it is not the IAP's role or responsibility to either determine the overall catches for NSW nor the linkage to quota. However, we urge the panel to recognise these issues and note the difficulties of consulting with industry when these greater issues are the focus of the industry. At the end industry is looking at restriction upon restriction, coupled with increasing management costs.*

Issue: *Industry's focus has turned to the proposed transitioning arrangements and specifically the determination of the overall allocation of catch to the NSW SFTF sector. Because this determination will lead to continued dumping of catches, as well as the 80/20% allocation also leading to potential fishers' reduction in catches, fishers have overall rejected the proposals.*

Issue: *In the majority, our industry is supportive of the transitioning of the Southern Fish Trawl Restricted Fishery from NSW governance to AFMA. However, the fundamental concern is that fishers will be issued quota that continues the existing restriction on fishing while significantly increasing their management fees. The industry does not want to proceed with the transition if they continue to be restricted in their fishing operations and face significantly higher management costs.*

Issue: *Members are also strongly upset regarding the proposed quota arrangements and the process used to determine the number of SFRs that will be granted to SFTF fishers. Specifically expressing that it is an unfair determination process by AFMA to determine the overall allocation of catch to the NSW SFTF sector utilising incorrect discard determinations.*

Issue: *A range of recommendations have been discussed by PFA members including:*

- *There is a need to ensure the stock in the SFR is not over exploited once restrictions are removed, allowing CFR fishers to catch their unutilised quota will see a dramatic increase in effort in the zone.*
- *During the 2018-19 (year prior to commencement of the transition):*
 - *New trip limits are put in place that enable the SFTF fishers to economically catch fish and show a true reflection of what the catch rate is with in state waters and still allows the integrity that AFMA requires to ensure harmony with CTS SFR holders.*
 - *Implementing an Observer Program to record the harvests, a more accurate sectorial allocation will be provided to reflect the actual commercial mortality of the Southern Fish Trawl Fishery.*
 - *Size limits are also removed to enable a true reflection on catch*
 - *A workshop is held consisting of State fishers / DPI and AFMA to review new limits.*
 - *Independent allocation process proceeds to determine the allocation formulas for the fishers.*
- *Phase in transition that allows greater research to inform a more accurate RBC that appropriately allocates quota based on the NSW sustainable economic harvest in state waters.*

- *This would require a more thorough Observer Program to correctly identify discards*
- *Adjustment of the AFMA RBC to accurately reflect the commercial mortality attributed to NSW sector.*
- *Purchase of Southern Fish Trawl quota to reallocate a more reflective amount to state waters.*
 - *It is not the fault of the industry that an appropriate understanding of their discards was not considered in the RBC. It was also not the fault of the NSW State industry that they were restricted to fish trawl trip limits to assist Commonwealth with their quota management arrangements. However, the NSW State industry will suffer the financial burden of this mismanagement unless they are allocated a higher proportion of the RBC. If AFMA refuses to adjust the flawed RBC and will not allow more time to transition, then Commonwealth quota must be purchased to reallocate to the NSW State sector.*

IAP Response: The issues raised under this theme are not within the IAP's ToR.

The IAP understands industry's concerns that the IAP recommendations do not provide a direct estimate of permitted catch for each species, however, as the PFA have identified, this is not the role of the IAP. Allocation and setting a TACC are different processes requiring different skill sets.

The issues are included here for direct reference by the Department of Primary Industries.

Appendix 2 – Further Scenario Analyses for Exceptional Circumstances

Whiting

Endorsement	Record landings for whole period	No of years with recorded landings between 09-10 to 16-17 (8 max)	20% endorsement and 80% recorded landings for whole period	20% endorsement and 80% catch history with lowest year removed	20% endorsement and 80% catch history with two lowest years removed
4.35%	3.6%	5	3.8%	3.8%	4.0%
4.35%	5.6%	8	5.3%	5.5%	5.6%
4.35%	16.6%	8	14.2%	13.8%	13.1%

Silver Trevally

Endorsement	Record landings for whole period	No of years with recorded landings between 09-10 to 16-17 (8 max)	20% endorsement and 80% recorded landings for whole period	20% endorsement and 80% catch history with lowest year removed	20% endorsement and 80% catch history with two lowest years removed
4.35%	2.7%	4	3.0%	3.0%	3.0%
4.35%	8.8%	8	7.9%	7.9%	8.0%
4.35%	28.0%	8	23.2%	23.1%	23.1%

Flathead

Endorsement	Record landings for whole period	No of years with recorded landings between 09-10 to 16-17 (8 max)	20% endorsement and 80% recorded landings for whole period	20% endorsement and 80% catch history with lowest year removed	20% endorsement and 80% catch history with two lowest years removed
4.35%	1.0%	7	1.7%	1.7%	1.7%
4.35%	6.0%	3	5.7%	5.9%	6.2%
4.35%	10.3%	8	9.1%	9.0%	8.5%

John Dory

Endorsement	Record landings for whole period	No of years with recorded landings between 09-10 to 16-17 (8 max)	20% endorsement and 80% recorded landings for whole period	20% endorsement and 80% catch history with lowest year removed	20% endorsement and 80% catch history with two lowest years removed
4.35%	2.2%	7	2.6%	2.6%	2.7%
4.35%	5.8%	3	5.5%	5.6%	5.8%
4.35%	22.7%	8	19.1%	19.0%	18.3%

Redfish

Endorsement	Record landings for whole period	No of years with recorded landings between 09-10 to 16-17 (8 max)	20% endorsement and 80% recorded landings for whole period	20% endorsement and 80% catch history with lowest year removed	20% endorsement and 80% catch history with two lowest years removed
4.35%	2.0%	6	2.5%	2.5%	2.5%
4.35%	18.8%	8	15.9%	16.0%	15.6%
4.35%	22.0%	3	18.5%	18.6%	19.0%

Sawshark

Endorsement	Record landings for whole period	No of years with recorded landings between 09-10 to 16-17 (8 max)	20% endorsement and 80% recorded landings for whole period	20% endorsement and 80% catch history with lowest year removed	20% endorsement and 80% catch history with two lowest years removed
4.35%	0.5%	5	1.3%	1.3%	1.3%
4.35%	12.5%	8	10.9%	10.9%	10.6%
4.35%	25.8%	3	21.5%	21.7%	22.2%

Gummy Shark

Endorsement	Record landings for whole period	No of years with recorded landings between 09-10 to 16-17 (8 max)	20% endorsement and 80% recorded landings for whole period	20% endorsement and 80% catch history with lowest year removed	20% endorsement and 80% catch history with two lowest years removed
4.35%	1.7%	8	2.2%	2.2%	2.2%
4.35%	5.4%	3	5.2%	5.2%	5.5%
4.35%	54.5%	8	44.5%	44.7%	43.6%

Blue Warehou, Jackass Morwong, School Shark, Ocean Perch

The allocation of these species was unaffected by removing the worst catch year over the criteria period as all fishing businesses recorded at least one year of nil catch of the respective species across the criteria period, therefore the relative distribution was unaffected by removal of this data.

Appendix 3 – Summary of Issues raised in Consultation Meetings and Round 1 Submissions – Ocean Trawl – Southern Fish Trawl Restricted Fishery

Purpose: This document sets out the many issues presented to the Independent Allocation Panel (IAP) by stakeholders attending individual consultation meetings, written submissions in response to the draft Terms of Reference and the first round of written submissions.

Issues have been grouped in subject headings for ease of comparison.

The IAP has considered the issues raised and have made specific comment in the Draft IAP Report on those issues determined by the IAP to require detailed explanation of how the issue was dealt with by the IAP.

ISSUES

Objectives of Share Management and Structural Adjustment

History of Share Management

Government Advice Re Share Management

The fishermen keep meeting the goalposts set by government and then they are changed again.

Use of Endorsement as Allocation Criteria.

They have an inactive license (that is what the Department would call it) but they pay all the government fees on it and have done for past 18 years. If catch history used in this process they are going to be treated as inactive even though they have been involved within the fishery since they all left school. Currently they have a fishing business that they are endorsed to go out and fish. Unsure what their children are going to do so they have been holding onto their license in case their children want to use it in the future.

Use of Catch History as Allocation Criteria

It is virtually impossible to make a commercial return fishing in state waters currently as there are too many artificial restrictions in the NSW waters as well as a lot of marine parks. They are not catching enough fish in the day to make it a worthwhile trip to complete. Impossible to have a catch history under these circumstances.

They do not make enough money in the SFT alone so they don't fish there. They lease it out rather than fish it and dump (get bad history). If the restrictions were not there they would work. There are only about 5 boats that fish regularly within the SFT. It doesn't pay to fish the SFT only so no one does it.

They believe that the fishery is sustainable but needs to be fished without artificial limits. There is a consultation paper that can be found on the AFMA and the DPI website. The paper says that if the fishery goes to Commonwealth they will be using the TAC figures shown at the back of this paper. The numbers for TAC that they are putting in the paper would not provide a sustainable living for anyone in the fishery. It is based on catch history that has been artificially restricted through trip limits and size limits and does not take into account discard rates. The TAC needs to be based on scientific measures and a rigorous process not on catch history as this has been limited in the past. Before they start putting numbers forward they need to do proper research, it is not fair for them to recommend

numbers on catch history as it is not legitimate. Let people fish freely for 2 years with no restrictions and see what the catch numbers end up being and base the TAC from that data rather than data from the current restricted fishery. Prove up the fishery – like what NZ did with the scampi fishery.

A diversified fishing has hurt him in terms of catch history for any quota he thinks he will receive

Converted his vessel from trawl to Danish Seine in 2016. Has a long trawl catch history doesn't catch that anymore and he never will again using Danish Seine. Doesn't want his investment to switch fishing methods to come back and bite him on the quota allocation through receiving quota species he cannot catch

Options for Allocation of Quota Shares

- Follow the way the Commonwealth has carried out their allocation in the past as these have been tested in court many times. The allocation should be completed like the cascade roughly, 20% on a license / 80% on catch history.
- Best to allocate across catch history / shares held / size of boat (length or hull units).
- Catch history should look over 10 years and average it choose the best 3 years.
- 20% SFT licence, 30% capacity of vessel, 50% catch history
- 1/3 holding the license – 1/3 size of boat – 1/3 catch history
- There should be some allocation to people who hold an inactive endorsement – otherwise the government should buy them out. The rest should be done on catch history between 2009/10-2015/16. Should not looked at separate species quota based on catch history – it is a multi-species fishery
- Include hull units in allocation formula – larger catching power and discard rate much higher

Management Issues Outside IAP ToR

- Many fishers and the PFA put the case that they believe that the fishery is sustainable but needs to be fished without the current artificial size and weight limits for some species. They referred to the consultation paper¹² that can be found on the AFMA and the DPI website. The paper says that if the fishery goes to Commonwealth they will be using the TAC figures shown at the back of this paper. The numbers for TAC that they are putting in the paper would not provide a sustainable living for anyone in the fishery. It is based on catch history that has been artificially restricted through trip limits and size limits and does not take into account discard rates. The TAC needs to be based on scientific measures and a rigorous process not on catch history as this has been limited in the past. Before they start putting numbers forward they need to do proper research, it is not fair for DPI to recommend future quota based on catch history as it is not legitimate. Let people fish freely for 2 years with no restrictions and see what the catch numbers end up being and base the TAC from that data rather than data from the current restricted fishery. Prove up the fishery – like what NZ did with the scampi fishery.
- Running the fishery as one jurisdiction (removing the state line) would be more efficient – would allow for one stock assessment and would require less regulation.
- There are people who had state licenses but sold them and only hold a commonwealth permit – if you were to remove the line they would be able to fish in both areas again without the investment in the SFT.

¹² Public Consultation Paper - Transitioning the NSW Southern Fish Trawl Restricted Fishery to Commonwealth management (NSW DPI, March 2018)

- When it gets converted so that state and commonwealth are all managed together it should only be the 23 boats that hold existing SFT licenses that should be allowed work across the line in state and commonwealth in one day. The commonwealth permit holders would have to stay outside of the 3nm line. This needs to be in place as he deserves the right to fish in both areas as he invested within both state and commonwealth. If you open it up those with only commonwealth permits will have received the state license without the investment, and those with only SFT licenses will get the commonwealth permit for nothing
- Need to have one set of rules for commonwealth and state fishery management (size limits, trip limits)
- If the IAP related fisheries goes to quota, there was a promise of government assistance – however will there be assistance from the government to help buy quota?

Exceptional Circumstances

During that timeline in DPI papers on ‘transition’¹³ he blew an engine, broke his leg and had to have a back operation. He is the nominated driver on his vessel, it has to be him skippering because you need specialised knowledge – that’s why there are guys in their 50s/60s still driving the boat.

They have completed 12 years of fisheries surveys for governments – DPI and AFMA. This year they will be completing the royal reds and an independent survey. Whilst they are completing surveys they are not getting the catch history recorded. They are one of the only fishermen that are completing the surveys (everyone wants the results without doing the survey themselves) – this could count for special circumstances.

¹³ Public Consultation Paper - Transitioning the NSW Southern Fish Trawl Restricted Fishery to Commonwealth management (NSW DPI, March 2018)

Appendix 4 – Biographies of Members of the Independent Allocation Panel

Daryl McPhee

Dr Daryl McPhee is a Director of the Fisheries Research and Development Corporation and Associate Professor of Environmental Science and Management at Bond University.

His early career was spent working directly for the Queensland commercial fishing industry. Among his publications is the book Fisheries Management in Australia, which remains the only book solely dedicated to the topic.

He has an extensive understanding of NSW commercial fisheries and has been a panel member for the allocation of a number of commercial fisheries in Western Australia.

Susan Madden

Susan Madden is currently Principal Economist, Natural Resources and Agriculture, at GHD Pty Ltd.

She has more than 15 years' experience working in agricultural and natural resource management roles in both the public and private sectors.

Throughout her career, she has been involved in the development, implementation and review of a wide range of policy and program initiatives relating to resource allocation and pricing reforms. These processes have involved extensive communication and engagement with government, industry and community stakeholders.

Susan is a Part-Time Member of the Murray-Darling Basin Authority, Chair of the Central West Local Land Services and member of the NSW Local Land Services Board.

Brett McCallum

Brett is currently a director of Bresal Consulting.

From 2001 to 2015 Brett was the Executive Officer of the Pearl Producers Association, the peak representative body for the pearling industry operating within WA and NT.

Brett was the Chief Executive of the Western Australian Fishing Industry Council (WAFIC) for 14 years from 1987. He has held senior managerial positions with leading Australian fishing companies from 1979 -1986.

He is the immediate past Deputy Chair of the Fisheries Research & Development Corporation, Chairman of the NT Offshore Snapper Fishery Management Committee and Chairman of the Australian Aquatic Animal Welfare Strategy Working Group.

He has experience on a number of on state and federal government working groups and committees including several access and allocation panels.

Appendix 5 – Terms of Reference for Independent Allocation Panel for Ocean Trawl - Southern Fish Trawl Restricted Fishery



Department of Primary Industries

TERMS OF REFERENCE

OUT18/672

SOUTHERN FISH TRAWL INDEPENDENT ALLOCATION PANEL

Governing Authority: Minister for Primary Industries

Agency: New South Wales Department Primary Industries

Panel Members:

Mr Brett McCallum
Dr Daryl McPhee
Ms Susan Madden

Purpose

Note: NSW will be advising the Commonwealth on the apportionment of quota rights between owners of NSW FBs eligible for a southern fish trawl endorsement. That advice will be provided to the Commonwealth for decisions to be made about the allocation of quota fishing concessions as part of a proposed arrangement to cede jurisdiction of the NSW Southern Fish Trawl Restricted Fishery to the Commonwealth.

To provide advice to the Minister for Primary Industries and the New South Wales Department of Primary Industries ("the Department") on the basis for the allocation of quota for the following species to the owners of NSW Fishing Businesses ("FBs") eligible for a Southern Fish Trawl ("SFT") endorsement ("eligible endorsement holders").

Eastern school whiting	<i>Sillago flindersi</i>
Silver trevally	<i>Pseudocaranx georgianis</i>
Flathead species combined:	
Bluespotted flathead	<i>Platycephalus caeruleopunctatus</i>
Tiger flathead	<i>Platycephalus richardsoni</i>
Southern bluespotted flathead	<i>Platycephalus speculator</i>
Southern sand flathead	<i>Platycephalus bassensis</i>
Toothy flathead	<i>Platycephalus aurimaculatus</i>
John Dory	<i>Zeus faber</i>
Redfish	<i>Centoberyx affinis</i>
Sawshark species combined:	
Common sawshark	<i>Pristiophorus cirratus</i>
Southern sawshark	<i>Pristiophorus nudipinnis</i>
Blue Warehou	<i>Seriola brama</i>
Gummy Shark	<i>Mustelus antarcticus</i>
Jackass Morwong	<i>Nemadactylus macropterus</i>

School shark	<i>Galeorhinus galeus</i>
Elephant fish	Families Callorhynchidae and Rhinochimaerida
Ocean perch species combined:	
Reef ocean perch	<i>Helicolenus percoides</i>
Bigeye ocean perch	<i>Helicolenus barathri</i>

Scope

In developing its recommendations on the basis for the allocation of quota fishing concessions the Independent Allocation Panel ("the Panel") is to consider:

- a) eligible endorsement holders' FBs and their components (e.g. SFT endorsements) as determined in accordance with section 34Q of the *Fisheries Management Act 1994* (the Act);
- b) reported fishing catch and effort records (as required to be made in accordance with sections 121 and 122 of the Act). The period to be considered will be that deemed appropriate by the Panel;
- c) key changes in management arrangements that are relevant to the SFT Fishery and criteria for the allocation of quota fishing concessions;
- d) existing rights held by others including shareholders in NSW commercial fisheries and the holders of Commonwealth Statutory Fishing Rights (SFRs);
- e) the possibility for fishers to trade quota rights across jurisdictions in the future; and,
- f) any other matter that is considered relevant by the Panel.

The Panel shall take all steps it considers reasonable in developing its final advice. The Panel may seek further advice from the Department on the scope of activities and other questions in response to issues that arise in considering the Terms of Reference or otherwise during the course of its activities.

Guiding Principles

In developing its recommendations the Panel is to take into account, where relevant, the following guiding principles:

1. **Fairness and equity** – an overarching principle that should inform an allocation issue or management generally is one of fairness and equity. That is, the resource is to be allocated and managed in a way that distributes the benefits of use fairly amongst participants and minimises any differential economic impacts such as wealth redistribution arising from an allocation or management generally.
2. **Consistency and transparency** – management arrangements, including any allocation process, should be developed or implemented in a consistent and transparent manner.

3. **Certainty for eligible endorsement holders** – the resource should be managed and fishing rights allocated in a way that recognises the needs of users of the resource, particularly those who rely on it for their livelihood.
4. **Opportunity to be heard** – participants in a fishery should have an opportunity to participate in developing management arrangements (including any allocation criteria) for a fishery through a transparent process.
5. **Existing rights and level of activity to be recognised** – this means that management arrangements and in particular allocation processes should have due regard to:
 - a) the historical rights and activity of participants in the SFT fishery, subject to any individual history or catch deemed through enforcement and compliance to be in contravention of regulations (which should be excluded from any allocation decision); and,
 - b) existing rights held by others including shareholders in NSW commercial fisheries and holders of Commonwealth Statutory Fishing Rights (SFRs).
6. **Best available information** – fisheries management and in particular allocation arrangements should take account of the best available information at the time the fisheries management or allocation arrangement is developed.
7. **Integrity of fisheries management arrangements** – fisheries management arrangements, including allocation decisions, should be consistent with legislative requirements and other fisheries management objectives.

Required Activities

The Panel will be required to:

- a) review the reported catch and effort records (as required to be made in accordance with sections 121 and 122 of the Act) and any other relevant information relating to policy decisions and management of the SFT Fishery;
- b) minimise risk of 'double dipping' by NSW shareholders / SFT endorsement holders by ensuring the consistent use of reported catch and effort records (and any other data) across share classes or fisheries;
- c) provide an opportunity for eligible endorsement holders to meet with, and make written representations to the Panel in regard to the allocation of quota fishing concessions for the species under Purpose (above);
- d) make a copy of the draft report available to eligible endorsement holders and the Department and consider comments on the draft prior to submitting a final report to the Minister; and
- e) consult with other people or organisations as considered appropriate by the Panel.

Minimum Required Outputs (Deliverables)

A draft report will be made available to eligible endorsements holders, the Department and the Australian Fisheries Management Authority ("AFMA") for a period during which written

submissions will be received. The Panel will consider submissions before their report is finalised.

A signed, formal final report outlining the Panel's recommendations is to be provided to the Minister. The report shall provide advice on the allocation of quota to eligible endorsement holders, supporting arguments and explanations or justification for the recommendations.

Timeframe

The final report is to be completed by the end of May 2018.

Support

The Department will provide the Panel with required support (e.g. secretarial services, travel and meeting arrangements and responses to requests for additional information) on an agreed basis.

The Department has engaged Grant Thornton Australia Ltd ("the Project Manager") to act as independent project managers for the Panel.

Background Material

The Department and AFMA will provide the Panel with relevant background information and access to the Department's files regarding relevant matters. The Department will also provide any additional relevant information requested by the Panel where such information exists.

Governance and Confidentiality

To the extent that they apply, the Panel will be required to comply with requirements of the Act, the *Government Information (Public Access) Act 2009* (NSW) and related regulations.

All written representations made by key stakeholders to the Panel will become public records and be subject to the *Privacy and Personal Information Protection Act 1998* (NSW) and *Government Information (Public Access) Act 2009* (NSW).

Any information provided to the Panel during the allocation process will only be for this purpose. Confidential information such as reported catch and effort information will not be identified or revealed through the report.

Intellectual Property and Retention of Records

All documents and other materials other than Panel members' personal documents (such as receipts, invoices, diaries etc.) used and produced by the Panel in the course of its activities remains the property of the Department. At the completion of the Panel's activities all documents and other materials will be retained by the Project Manager on behalf of the Department in accordance with the *State Records Act 1998* (NSW) and *Privacy and Personal Information Protection Act 1998* (NSW).

Attachment 1 – Selected Legislation

STATE RECORDS ACT 1998 - SECT 11

Obligation to protect records

11 Obligation to protect records

(1) Each public office must ensure the safe custody and proper preservation of the State records that it has control of.

(2) A public office must ensure that arrangements under which a State record that it has control of but that is in the possession or custody of some other person include arrangements for the safe keeping, proper preservation and due return of the record.

(3) A public office must take all reasonable steps to recover a State record for which the public office is responsible and that the public office does not have control of, unless the record is under the control of the Authority or of some other person with lawful authority.

PRIVACY AND PERSONAL INFORMATION PROTECTION ACT 1998 - SECT 12

Retention and security of personal information

12 Retention and security of personal information

A public sector agency that holds personal information must ensure:

(a) that the information is kept for no longer than is necessary for the purposes for which the information may lawfully be used, and

(b) that the information is disposed of securely and in accordance with any requirements for the retention and disposal of personal information, and

(c) that the information is protected, by taking such security safeguards as are reasonable in the circumstances, against loss, unauthorised access, use, modification or disclosure, and against all other misuse, and

(d) that, if it is necessary for the information to be given to a person in connection with the provision of a service to the agency, everything reasonably within the power of the agency is done to prevent unauthorised use or disclosure of the information.

GOVERNMENT INFORMATION (PUBLIC ACCESS) ACT 2009 - SECT 14

Public interest considerations against disclosure

14 Public interest considerations against disclosure

(1) It is to be conclusively presumed that there is an overriding public interest against disclosure of any of the government information described in Schedule 1.

(2) The public interest considerations listed in the Table to this section are the only other considerations that may be taken into account under this Act as public interest considerations against disclosure for the purpose of determining whether there is an overriding public interest against disclosure of government information.

(3) The Information Commissioner can issue guidelines about public interest considerations against the disclosure of government information, for the assistance of agencies, but cannot add to the list of considerations in the Table to this section.

(4) The Information Commissioner must consult with the Privacy Commissioner before issuing any guideline about a privacy-related public interest consideration (being a public interest consideration referred to in clause 3 (a) or (b) of the Table to this section).

Table

<p>: 1 Responsible and effective government There is a public interest consideration against disclosure of information if disclosure of the information could reasonably be expected to have one or more of the following effects (whether in a particular case or generally):(a) prejudice collective Ministerial responsibility,(b) prejudice Ministerial responsibility to Parliament,(c) prejudice relations with, or the obtaining of confidential information from, another government,(d) prejudice the supply to an agency of confidential information that facilitates the effective exercise of that agency's functions,(e) reveal a deliberation or consultation conducted, or an opinion, advice or recommendation given, in such a way as to prejudice a deliberative process of government or an agency,(f) prejudice the effective exercise by an agency of the agency's functions,(g) found an action against an agency for breach of confidence or otherwise result in the disclosure of information provided to an agency in confidence,(h) prejudice the conduct, effectiveness or integrity of any audit, test, investigation or review conducted by or on behalf of an agency by revealing its purpose, conduct or results (whether or not commenced and whether or not completed).</p>
<p>: 2 Law enforcement and security There is a public interest consideration against disclosure of information if disclosure of the information could reasonably be expected to have one or more of the following effects (whether in a particular case or generally):(a) reveal or tend to reveal the identity of an informant or prejudice the future supply of information from an informant,(b) prejudice the prevention, detection or investigation of a contravention or possible contravention of the law or prejudice the enforcement of the law,(c) increase the likelihood of, or prejudice the prevention of, preparedness against, response to, or recovery from, a public emergency (including any natural disaster, major accident, civil disturbance or act of terrorism),(d) endanger, or prejudice any system or procedure for protecting, the life, health or safety of any person,(e) endanger the security of, or prejudice any system or procedure for protecting, any place, property or vehicle,(f) facilitate the commission of a criminal act (including a terrorist act within the meaning of the Terrorism (Police Powers) Act 2002),(g) prejudice the supervision of, or facilitate the escape of, any person in lawful custody,(h) prejudice the security, discipline or good order of any correctional facility.</p>
<p>: 3 Individual rights, judicial processes and natural justice There is a public interest consideration against disclosure of information if disclosure of the information could reasonably be expected to have one or more of the following effects:(a) reveal an individual's personal information,(b) contravene an information protection principle under the Privacy and Personal Information Protection Act 1998 or a Health Privacy Principle under the Health Records and Information Privacy Act 2002 ,(c) prejudice any court proceedings by revealing matter prepared for the purposes of or in relation to current or future proceedings,(d) prejudice the fair trial of any person, the impartial adjudication of any case or a person's right to procedural fairness,(e) reveal false or unsubstantiated allegations about a person that are defamatory,(f) expose a person to a risk of harm or of serious harassment or serious intimidation,(g) in the case of the disclosure of personal information about a child—the disclosure of information that it would not be in the best interests of the child to have disclosed.</p>
<p>: 4 Business interests of agencies and other persons There is a public interest consideration against disclosure of information if disclosure of the information could reasonably be expected to have one or more of the following effects:(a) undermine competitive neutrality in connection with any functions of an agency in respect of which it competes with any person or otherwise place an agency at a competitive advantage or disadvantage in any market,(b) reveal commercial-in-confidence provisions of a government contract,(c) diminish the competitive commercial value of any information to any person,(d) prejudice any person's legitimate business, commercial, professional or financial interests,(e) prejudice the conduct, effectiveness or integrity of any research by revealing its purpose, conduct or results (whether or not commenced and whether or not completed).</p>
<p>: 5 Environment, culture, economy and general matters There is a public interest consideration against disclosure of information if disclosure of the information could reasonably be expected to have one or more of the following effects:(a) endanger, or prejudice any system or procedure for protecting, the environment,(b) prejudice the conservation of any place or object of natural, cultural or heritage value, or reveal any information relating to Aboriginal or Torres Strait Islander traditional knowledge,(c) endanger, or prejudice any system or procedure for protecting, the life, health or safety of any animal or other living thing, or threaten the existence of any species,(d) damage, or prejudice</p>

<p>the ability of the Government or an agency to manage, the economy,(e) expose any person to an unfair advantage or disadvantage as a result of the premature disclosure of information concerning any proposed action or inaction of the Government or an agency.</p>
<p>: 6 Secrecy provisions (1) There is a public interest consideration against disclosure of information if disclosure of the information by any person could (disregarding the operation of this Act) reasonably be expected to constitute a contravention of a provision of any other Act or statutory rule (of this or another State or of the Commonwealth) that prohibits the disclosure of information, whether or not the prohibition is subject to specified qualifications or exceptions.(2) The public interest consideration under this clause extends to consideration of the policy that underlies the prohibition against disclosure.</p>
<p>: 7 Exempt documents under interstate Freedom of Information legislation (1) There is a public interest consideration against disclosure of information communicated to the Government of New South Wales by the Government of the Commonwealth or of another State if notice has been received from that Government that the information is exempt matter within the meaning of a corresponding law of the Commonwealth or that other State.(2) The public interest consideration under this clause extends to consideration of the policy that underlies the exemption.(3) In this clause, a reference to a corresponding law is a reference to:(a) the Freedom of Information Act 1982 of the Commonwealth, or(b) a law of any other State that is prescribed by the regulations as a corresponding law for the purposes of this clause.</p>

Appendix 6 – Correspondence and Advice to Eligible Ocean Trawl - Southern Fish Trawl Restricted Fishery Endorsement Holders

Appendix 6.1 - First Letter from IAP to eligible Ocean Trawl - Southern Fish Trawl Restricted Fishery endorsement holders on 8 December 2017

OCEAN TRAWL – FISH NORTHERN ZONE, OCEAN HAULING – PURSE SEINE NET,
OCEAN TRAP AND LINE – LINE EASTERN ZONE AND ESTUARY GENERAL – HAND
GATHERING

INDEPENDENT ALLOCATION PANEL

c/o The IAP, Grant Thornton Level 17, 383 Kent Street, Sydney 2000

UPDATE Friday 8th December 2018

Dear Fishing Business Owners,

A copy of this communication can be found at www.grantthornton.com.au/IAP.

Feedback on the draft Terms of Reference closed on 1 December 2017. The Terms of Reference for Ocean Trawl, Ocean Haul and Estuary General have been amended and finalised by the Minister in response to industry consultation, issues raised by Panel and issues identified by Department. Thank you to all who provided submissions.

The finalised Terms of Reference for each sector can be found below this communication.

The NSW Department of Primary Industries will be updating their website with these finalised Terms of Reference in the near future. Please check their website at <https://www.dpi.nsw.gov.au/fishing/commercial/reform/independent-allocation-panel>.

The Minister has decided that a separate Terms of Reference will be required for the Southern Fish Trawl Fishery. Draft Terms of Reference are currently being developed for the Southern Fish Trawl fishery by the DPI in collaboration with the Australian Fisheries Management Authority. When this is completed, DPI will communicate with Fishing Business Owners to request feedback on the draft Terms of Reference for the Southern Fish Trawl fishery. The Panel will be provided the approved ToR by the Minister and at that time will arrange additional time to speak with the Fishing Business Owners involved in the Southern Fish Trawl.

Consultations

Please be advised that bookings for consultations at all locations are now open. Consultation dates are as follows:

Location	Date
Sydney	14 th – 15 th December, 2017
Wollongong	18 th – 20 th December, 2017
Newcastle	9 th – 12 January, 2018
Coffs Harbour	17 th – 19 th January, 2018
Port Macquarie	23 rd – 25 th January, 2018
Eden	30 th – 31 st January, 2018
Ballina	7 th – 9 th February, 2018
Clarence	16 th January 2018, 6 th February 2016

PLEASE NOTE: Bookings will close 48 hours prior to the first date at each location.

Please book Sydney and Wollongong consultations as soon as possible.

To Book a Consultation

To book a consultation timeslot with the Panel, fishing business owners are requested to go to <https://meetme.so/IAPBooking>. Once here you will be prompted to select your preferred consultation location and indicate if you wish to meet the Panel individually or as a small group with other fishing business owners. You will be required to select 3 options for session times and once a timeslot has been allocated, you will receive a confirmation email with details of your final consultation time and location. The booking form will ask you to provide us with information including your contact details and fishing business license number(s).

Alternatively, you may call Grant Thornton on 02 9286 5800 to book a time and location.

PLEASE NOTE: Bookings will close 48 hours prior to the first date at each location.

If none of the above locations are suitable, please call Grant Thornton on 02 9286 5800 to discuss.

Yours sincerely,



Dr Daryl McPhee



Susan Madden



Brett McCallum

Appendix 6.2 - Second Letter from IAP to eligible Ocean Trawl - Southern Fish Trawl Restricted Fishery endorsement holders on 21 December 2018

OCEAN TRAWL – FISH NORTHERN ZONE, OCEAN HAULING – PURSE SEINE NET,
OCEAN TRAP AND LINE – LINE EASTERN ZONE AND ESTUARY GENERAL – HAND
GATHERING

INDEPENDENT ALLOCATION PANEL

c/o The IAP, Grant Thornton Level 17, 383 Kent Street, Sydney 2000

21st December, 2017

Dear Fishing Business Owners,

A copy of this communication can be found at www.grantthornton.com.au/IAP.

Feedback from industry on the draft Terms of Reference for the basis of the allocation of particular species quota shares in the fisheries outlined above closed on 1 December 2017. The Minister finalised the Terms of Reference after considering the feedback from industry together with issues raised by the Independent Allocation Panel and the Department of Primary Industries (the Department). Thank you to all who provided feedback.

The NSW Department of Primary Industries has updated their website with the finalised Terms of Reference. Please check their website at <https://www.dpi.nsw.gov.au/fishing/commercial/reform/independent-allocation-panel>.

The Minister has decided that a separate Terms of Reference will be required for the Southern Fish Trawl Fishery. Draft Terms of Reference are currently being developed for the Southern Fish Trawl Fishery by the Department in collaboration with the Australian Fisheries Management Authority. When this is completed, DPI will communicate with Fishing Business Owners within the Southern Fish Trawl Fishery to request feedback on the draft Terms of Reference. The Panel will be provided the approved Terms of Reference by the Minister and at that time will arrange additional time to consult with the Fishing Business Owners involved in the Southern Fish Trawl. This is expected to be in February 2018.

Consultations

The consultation process began on the 14th of December 2017 and the Panel has consulted with Fishing Business Owners in Sydney and Wollongong who have provided their perspective as to the basis of the allocation of particular species quota shares in their Fisheries.

To provide you the best opportunity to have your say, you are invited to provide a written submission regarding your perspective and/or meet with the Panel face-to-face for a consultation at any of the locations set out below.

Written submissions can be sent via email to IAP@au.gt.com or mail your submission c/o The IAP, Grant Thornton Level 17, 383 Kent Street, Sydney 2000.

Please be advised that bookings for consultations at all locations are now open.

PLEASE NOTE: Bookings will close 48 hours prior to the first date at each location.

Consultation dates are as follows:

Location	Date
Newcastle	9 th – 12 January, 2018
Coffs Harbour	17 th – 19 th January, 2018
Port Macquarie	23 rd – 25 th January, 2018
Eden	30 th – 31 st January, 2018
Ballina	7 th – 9 th February, 2018
Clarence	16 th January 2018, 6 th February 2016

There will be the opportunity for the Southern Fish Trawl fishers to have additional consultation outside these dates once the Terms of Reference have been finalised. We will communicate with the industry once this has occurred.

If you would like a consultation but none of the listed locations are suitable, please call the Project Managers of this process, Grant Thornton Australia Limited on 02 9286 5800 to discuss.

To Book a Consultation

To book a consultation timeslot with the Panel, Fishing Business Owners are requested to go to <https://meetme.so/IAPBooking>. Once here you will be prompted to select your preferred consultation location and indicate if you wish to meet the Panel individually or as a small group with other Fishing Business Owners. You will be required to select three options for session times and once a timeslot has been allocated, you will receive a confirmation email with details of your final consultation time and location. The booking form will ask you to provide us with information including your contact details and Fishing Business license number(s).

Alternatively, you may call Grant Thornton on 02 9286 5800 to book a time and location, email us at IAP@au.gt.com or request a consultation via mail c/o The IAP, Grant Thornton Level 17, 383 Kent Street, Sydney 2000.

PLEASE NOTE: Bookings will close 48 hours prior to the first date at each location.

If none of the above locations are suitable, please call Grant Thornton on 02 9286 5800 to discuss.

Yours sincerely,



Dr Daryl McPhee



Susan Madden



Brett McCallum

Appendix 6.3 - Third Letter from IAP to eligible Ocean Trawl - Southern Fish Trawl Restricted Fishery endorsement holders on 31 January 2018

SOUTHERN FISH TRAWL

INDEPENDENT ALLOCATION PANEL

c/o The IAP, Grant Thornton Level 17, 383 Kent Street, Sydney 2000

UPDATE Wednesday 31st January 2018

Re: Southern Fish Trawl

Dear Southern Fish Trawl Fishing Business Owners,

A copy of this communication can be found at www.grantthornton.com.au/IAP.

The draft Terms of Reference for the Southern Fish Trawl Restricted Fishery is now available for stakeholder feedback on the Department of Primary Industries website:

<https://www.dpi.nsw.gov.au/fishing/commercial/reform/independent-allocation-panel>

Comments close on Tuesday the 6th of February after which the Southern Fish Trawl Restricted Fishery Terms of Reference will be finalised by the Minister and passed on to the Independent Allocation Panel for action.

The Panel has scheduled to consult with interested Southern Fish Trawl fishing business owners during March 2018. Please book a consultation using the booking process below to have your say regarding the allocation in your fishery.

The dates the Panel will be available are:

Nowra

- Tuesday, March 6, 2018
- Wednesday, March 7, 2018

Sydney

- Thursday, March 8, 2018
- Friday, March 9, 2018

Eden / Bermagui

- Tuesday, March 13, 2018
- Wednesday, March 14, 2018

Please book a consultation with the Panel as soon as possible to ensure you have your say.

Bookings close 48 hours prior to the first date at each location. See booking process below.

To Book a Consultation

To book a consultation timeslot with the Panel, fishing business owners are requested to go to <https://meetme.so/IAPBooking>. Once here you will be prompted to select your preferred consultation location and indicate if you wish to meet the Panel individually or as a small group with other fishing business owners. You will be required to select 3 options for session

times and once a timeslot has been allocated, you will receive a confirmation email with details of your final consultation time and location. The booking form will ask you to provide us with information including your contact details and fishing business license number(s).

Alternatively, you may call Grant Thornton on 02 9286 5800 to book a time and location.

PLEASE NOTE: Bookings will close 48 hours prior to the first date at each location.

If you wish to provide a written submission to the Panel, please email iap@au.gt.com.

If none of the above locations are suitable, please call Grant Thornton on 02 9286 5800 to discuss.

Yours sincerely,



Dr Daryl McPhee



Susan Madden



Brett McCallum

*Appendix 6.4 - Fourth Letter from IAP to eligible Ocean Trawl - Southern Fish Trawl
Restricted Fishery endorsement holders on 12 February 2018*

INDEPENDENT ALLOCATION PANEL

c/o The IAP, Grant Thornton Level 17, 383 Kent Street, Sydney 2000

12th February, 2018

Dear Fishing Business Owners,

A copy of this communication can be found at www.grantthornton.com.au/IAP.

This communication refers to the independent Allocation Panel Terms of Reference for the following fisheries:

OCEAN TRAWL (INSHORE/OFFSHORE PRAWN & FISH NORTHERN ZONE)
OCEAN HAULING (PURSE SEINE NET),
OCEAN TRAP AND LINE (LINE EASTERN ZONE)
ESTUARY GENERAL (HAND GATHERING)

Following consultation with industry, the Independent Allocation Panel has extended the cut-off date for written submissions to the 23rd February, 2018.

Please note that this does not apply to the Southern Fish Trawl. Final terms of reference have yet to be approved by the Minister. A separate consultation process for Southern Fish Trawl, including a deadline for written submissions, will be communicated to eligible stakeholders.

Yours sincerely,



Dr Daryl McPhee



Susan Madden



Brett McCallum

Appendix 6.5 - Fifth Letter from IAP to eligible Ocean Trawl - Southern Fish Trawl Restricted Fishery endorsement holders on 28 February 2018

**OCEAN TRAWL– FISH NORTHERN ZONE AND INSHORE AND OFFSHORE
PRAWN, OCEAN HAULING – PURSE SEINE NET, OCEAN TRAP AND LINE – LINE
EASTERN ZONE, ESTUARY GENERAL – HAND GATHERING AND SOUTHERN FISH
TRAWL**

INDEPENDENT ALLOCATION PANEL

c/o The IAP, Grant Thornton Australia Ltd, Level 17, 383 Kent Street, Sydney 2000

UPDATE Wednesday 28th February 2018

Dear Fishing Business Owners,

Thank you to the many people with whom we have had face-to-face consultations over the last two months for the Ocean Trawl – Fish Northern Zone and Inshore and Offshore Prawn, Ocean Haul – Purse Seine Net, Ocean Trap and Line – Line Eastern Zone, and Estuary General – Hand Gathering Fisheries.

Thank you to all who provided submissions – the deadline for which closed on 23rd February 2018.

Please see the attached timeline (below) regarding next steps in the IAP process.

The final Terms of Reference for the Southern Fish Trawl is now available. You can find the final Terms of Reference in the IAP webpage at <https://www.granthornton.com.au/iap/>.

The NSW Department of Primary Industries will be updating their website with these finalised Terms of Reference in the near future. Please check their website at <https://www.dpi.nsw.gov.au/fishing/commercial/reform/independent-allocation-panel>.

Please note that the Southern Fish Trawl final report will be completed by the end of June 2018 (the draft report will be available for industry consultation in May 2018).

Southern Fish Trawl Fishing Business Owners are encouraged to book a consultation with the Panel as soon as possible. Please visit <https://meetme.so/IAPBooking> or alternatively call 02 9286 5800 to **book a consultation meeting** to have your say regarding the allocation of quota shares in the Southern Fish Trawl fishery.

The dates the Panel will be available to hold consultation meetings are:

Nowra

- Tuesday, March 6, 2018
- Wednesday, March 7, 2018

Sydney

- Thursday, March 8, 2018
- Friday, March 9, 2018

Eden

- Tuesday, March 13, 2018

Bermagui

- Wednesday, March 14, 2018

Please book a consultation with the Panel as soon as possible to ensure you have your say.

See booking process below.

To Book a Consultation

To book a consultation timeslot with the Panel, fishing business owners are requested to go to <https://meetme.so/IAPBooking>. Once here you will be prompted to select your preferred consultation location and indicate if you wish to meet the Panel individually or as a small group with other fishing business owners. You will be required to select 3 options for session times and once a timeslot has been allocated, you will receive a confirmation email with details of your final consultation time and location. The booking form will ask you to provide us with information including your contact details and fishing business license number(s).

Alternatively, you may call Grant Thornton Australia Ltd on 02 9286 5800 to book a time and location.

If you wish to provide a written submission to the Panel, please email iap@au.gt.com.

If none of the above locations are suitable, please call Grant Thornton Australia Ltd on 02 9286 5800 to discuss.

Yours sincerely,



Dr Daryl McPhee



Susan Madden

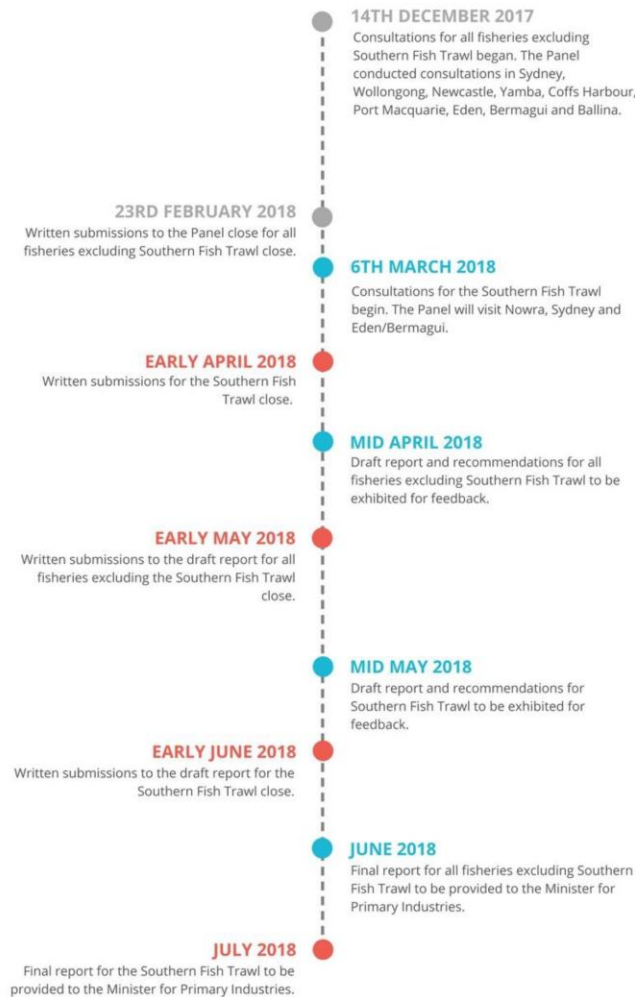


Brett McCallum

Independent Allocation Panel

PROPOSED TIMELINE

Please find below the proposed timeline for the Independent Allocation Panel to provide advice to the NSW Government on species shares for Ocean Trap & Line – Line Eastern Zone, Ocean Haul–Purse Seine Net, Ocean Trawl – Fish Northern Zone and Inshore and Offshore Prawn, Estuary General – Hand Gathering and Southern Fish Trawl.



Appendix 6.6 - Sixth Letter from IAP to eligible Ocean Trawl - Southern Fish Trawl Restricted Fishery endorsement holders on 8 March 2018

OCEAN TRAWL– FISH NORTHERN ZONE AND INSHORE AND OFFSHORE PRAWN,
OCEAN HAULING – PURSE SEINE NET, OCEAN TRAP AND LINE – LINE EASTERN
ZONE, ESTUARY GENERAL – HAND GATHERING AND SOUTHERN FISH TRAWL

INDEPENDENT ALLOCATION PANEL

c/o The IAP, Grant Thornton Level 17, 383 Kent Street, Sydney 2000

Thursday 8th March 2018

Re: Communication regarding DPI letter dated 27/2/18

Dear Fishing Business Owners.

A copy of this communication can be found at www.grantthornton.com.au/IAP.

It has been brought to the attention of the Independent Allocation Panel (IAP) that a letter from the Department of Primary Industry (dated 27/2/18) has been circulated to eligible shareholders for species under consideration by the IAP process. The letter seeks fishing business owners to review catch data records and advise of discrepancies to remove any data entry errors in the DPI records.

As advised in the DPI letter the IAP may or may not use catch and effort information reported to the Department.

The IAP wishes to confirm that the process to check catch data records has been initiated by the DPI and as such, any questions relating to this letter should be directed to the Department.

The IAP would like to stress that it is still in the process of consulting with eligible stakeholders and considering the many written submissions it has received as part of this process.

The **IAP has made no recommendations at this stage** in relation to the ToR for any of the fisheries under review as part of this process.

As previously advised, the IAP will issue a 'draft report' that will be circulated to eligible shareholders for their consideration by mid-April 2018 (a little later for the Southern Fish Trawl fishery).

Yours sincerely,



Dr Daryl McPhee



Susan Madden



Brett McCallum

*Appendix 6.7 - Seventh Letter from IAP to eligible Ocean Trawl - Southern Fish Trawl
Restricted Fishery endorsement holders on 6 April 2018*

OCEAN TRAWL– FISH NORTHERN ZONE AND INSHORE AND OFFSHORE PRAWN,
OCEAN HAULING – PURSE SEINE NET, OCEAN TRAP AND LINE – LINE EASTERN
ZONE, ESTUARY GENERAL – HAND GATHERING AND SOUTHERN FISH TRAWL

INDEPENDENT ALLOCATION PANEL

c/o The IAP, Grant Thornton Level 17, 383 Kent Street, Sydney 2000

Friday 6th April 2018

Re: Southern Fish Trawl and process timeline update

Dear Fishing Business Owners.

A copy of this communication can be found at www.grantthornton.com.au/IAP.

Face-to-face consultations with Southern Fish Trawl fishing business owners have been completed. Thank you to the many people who attended a consultation session.

Please note that written submissions for Southern Fish Trawl will close on the 16th of April 2018. Please send all written submissions to iap@au.gt.com or Independent Allocation Panel, c/o The IAP, Grant Thornton Level 17, 383 Kent Street, Sydney 2000.

As previously advised, the IAP will issue a 'draft report' for each of the following fisheries and will be circulated to eligible shareholders: Ocean Trawl– Fish Northern Zone and Inshore and Offshore Prawn; Ocean Hauling – Purse Seine Net; Ocean Trap and Line – Line Eastern Zone; and Estuary General – Hand Gathering, for their consideration by mid-April 2018. A 'draft report' will be circulated for Southern Fish Trawl in early-May 2018.

A copy of the updated proposed timeline can be found below.

For copies of the Terms of Reference for each fishery please visit
<https://www.dpi.nsw.gov.au/fishing/commercial/reform/independent-allocation-panel>.

Yours sincerely,



Dr Daryl McPhee



Susan Madden



Brett McCallum

Independent Allocation Panel

PROPOSED TIMELINE

Please find below the proposed timeline for the Independent Allocation Panel to provide advice to the NSW Government on species shares for Ocean Trap & Line – Line Eastern Zone, Ocean Haul-Purse Seine Net, Ocean Trawl – Fish Northern Zone and Inshore and Offshore Prawn, Estuary General – Hand Gathering and Southern Fish Trawl.



*Appendix 6.8 - Eighth Letter from IAP to eligible Ocean Trawl - Southern Fish Trawl
Restricted Fishery endorsement holders on 16 April 2018*

OCEAN TRAWL– FISH NORTHERN ZONE AND INSHORE AND OFFSHORE PRAWN,
OCEAN HAULING – PURSE SEINE NET, OCEAN TRAP AND LINE – LINE EASTERN
ZONE, ESTUARY GENERAL – HAND GATHERING AND SOUTHERN FISH TRAWL

INDEPENDENT ALLOCATION PANEL

c/o The IAP, Grant Thornton Level 17, 383 Kent Street, Sydney 2000

Monday 16th April 2018

**Re: Draft Reports for Ocean Trawl – Fish Northern Zone and Inshore and Offshore
Prawn, Ocean Hauling – Purse Seine Net, Ocean Trap and Line – Line Eastern Zone
and Estuary General – Hand Gathering**

Dear Fishing Business Owners,

A copy of this communication can be found at www.grantthornton.com.au/IAP.

Please be advised that draft reports for Ocean Trawl – Fish Northern Zone and Inshore and Offshore Prawn, Ocean Hauling – Purse Seine Net, Ocean Trap and Line – Line Eastern Zone and Estuary General – Hand Gathering are now available.

Physical copies of the draft reports have been sent out via post to all Fishing Business License Owners. Electronic copies of the reports can be found at:
www.grantthornton.com.au/IAP.

The Independent Allocation Panel is now inviting comment and feedback on the draft reports. Please send all written submissions to iap@au.gt.com or Independent Allocation Panel, c/o The IAP, Grant Thornton Level 17, 383 Kent Street, Sydney 2000.

Submissions for the draft report for Ocean Trawl – Fish Northern Zone and Inshore and Offshore Prawn, Ocean Hauling – Purse Seine Net, Ocean Trap and Line – Line Eastern Zone and Estuary General – Hand Gathering will close at **5pm** on the **7th of May**.

This deadline has been set to ensure we are able to provide timely advice to the Minister of Primary Industries and allow fishermen to have more clarity on the future direction of the fisheries as soon as possible. As such, submissions provided after the 7th of May will not be considered when preparing the final report. Please ensure submissions are provided prior to 5pm on the 7th of May.

The Panel would like to thank all the Fishing Business Owners who took the time to attend consultations and provide submissions. Your input was invaluable to the drafting of the report.

A draft report will be circulated for Southern Fish Trawl on the 30th of April.

We have attached a copy of the timeline for the IAP process below.

For copies of the Terms of Reference for each fishery please visit
<https://www.dpi.nsw.gov.au/fishing/commercial/reform/independent-allocation-panel>.

Yours sincerely,



Dr Daryl McPhee



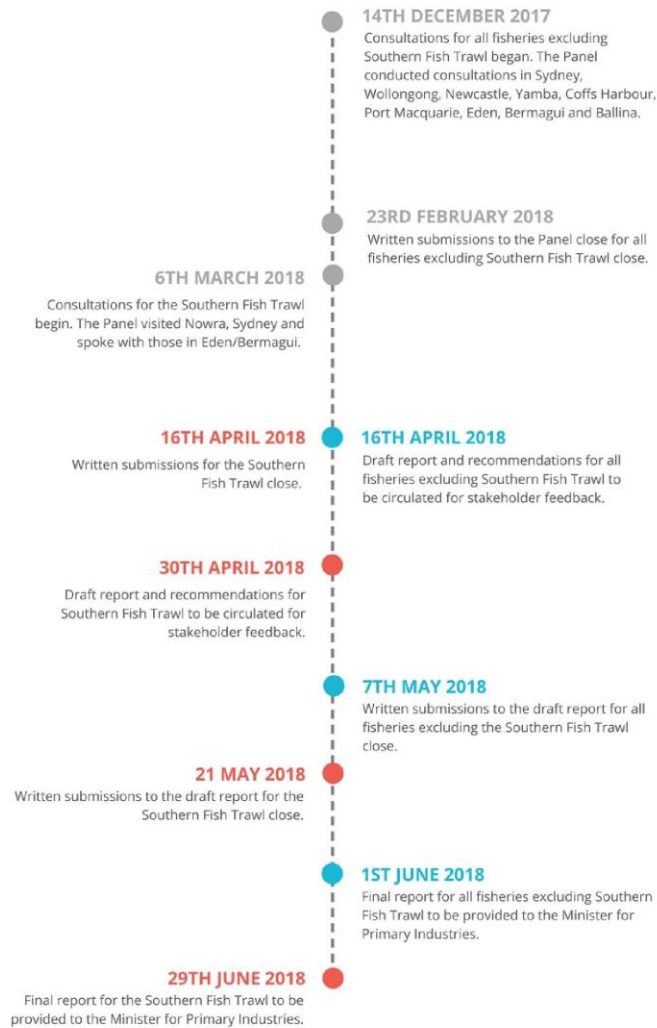
Susan Madden



Brett McCallum

Independent Allocation Panel TIMELINE

Please find below the timeline for the Independent Allocation Panel to provide advice to the NSW Government on species shares for Ocean Trap & Line – Line Eastern Zone, Ocean Haul– Purse Seine Net, Ocean Trawl – Fish Northern Zone and Inshore and Offshore Prawn, Estuary General – Hand Gathering and Southern Fish Trawl.



*Appendix 6.9 - Ninth Letter from IAP to eligible Ocean Trawl - Southern Fish Trawl
Restricted Fishery endorsement holders on 30 April 2018*

OCEAN TRAWL– SOUTHERN FISH TRAWL
INDEPENDENT ALLOCATION PANEL
c/o The IAP, Grant Thornton Level 17, 383 Kent Street, Sydney 2000

Monday 30th April 2018

Re: Draft Report for Ocean Trawl – Southern Fish Trawl

Dear Fishing Business Owners,

A copy of this communication can be found at www.grantthornton.com.au/IAP.

Please be advised that draft reports for Ocean Trawl – Southern Fish Trawl is now available.

Physical copies of the draft reports have been sent out via post to all Fishing Business License Owners. Electronic copies of the report can be found at:
www.grantthornton.com.au/IAP.

The Independent Allocation Panel is now inviting comment and feedback on the draft report. Please send all written submissions to iap@au.gt.com or Independent Allocation Panel, c/o The IAP, Grant Thornton Level 17, 383 Kent Street, Sydney 2000.

Submissions for the draft report for Ocean Trawl – Southern Fish Trawl will close at **5pm** on the **21st of May**.

This deadline has been set to ensure we are able to provide timely advice to the Minister of Primary Industries and allow fishermen to have more clarity on the future direction of the fisheries as soon as possible. As such, submissions provided after the 21st of May will not be considered when preparing the final report. Please ensure submissions are provided prior to 5pm on the 21st of May as there will be absolutely no extensions to this deadline.

The Panel would like to thank all the Fishing Business Owners who took the time to attend consultations and provide submissions. Your input was invaluable to the drafting of the report.

We have attached a copy of the timeline for the IAP process below.

For copies of the Terms of Reference please visit
<https://www.dpi.nsw.gov.au/fishing/commercial/reform/independent-allocation-panel>.

Yours sincerely,



Dr Daryl McPhee



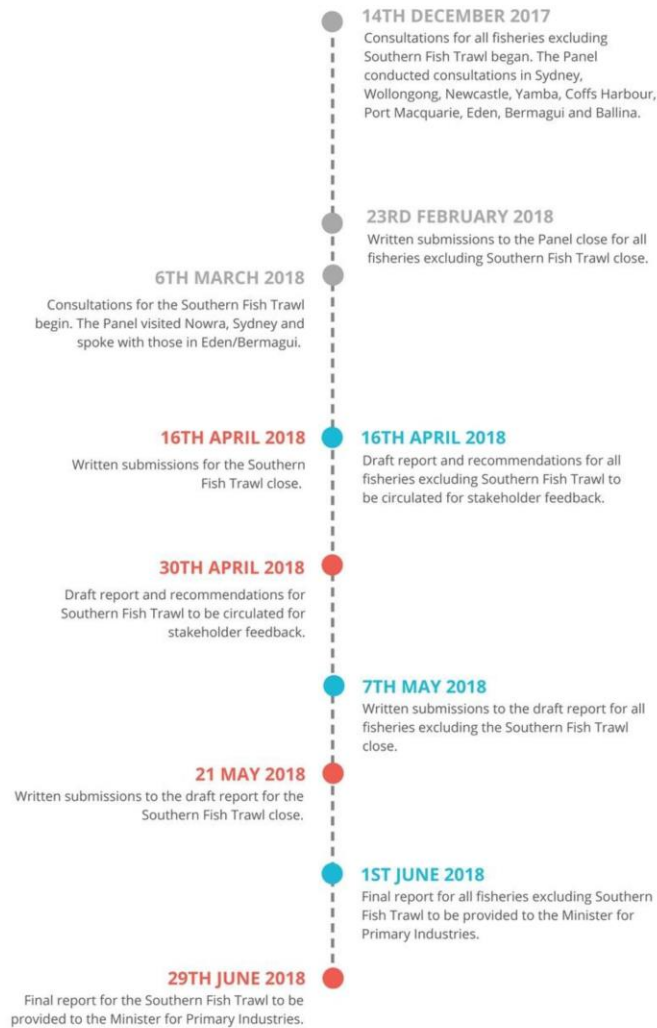
Susan Madden



Brett McCallum

Independent Allocation Panel TIMELINE

Please find below the timeline for the Independent Allocation Panel to provide advice to the NSW Government on species shares for Ocean Trap & Line – Line Eastern Zone, Ocean Haul– Purse Seine Net, Ocean Trawl – Fish Northern Zone and Inshore and Offshore Prawn, Estuary General – Hand Gathering and Southern Fish Trawl.



*Appendix 6.10 - Tenth Letter from IAP to eligible Ocean Trawl - Southern Fish Trawl
Restricted Fishery endorsement holders on 4 May 2018*

OCEAN TRAWL – FISH NORTHERN ZONE AND INSHORE AND OFFSHORE PRAWN,
OCEAN HAULING – PURSE SEINE NET, OCEAN TRAP AND LINE – LINE EASTERN
ZONE, ESTUARY GENERAL – HAND GATHERING AND SOUTHERN FISH TRAWL

INDEPENDENT ALLOCATION PANEL

c/o The IAP, Grant Thornton Level 17, 383 Kent Street, Sydney 2000

Friday 4th May 2018

**Re: Worked example on the allocation of new quota shares based on the IAPs draft
recommendations and extension on submissions for draft reports.**

Dear Fishing Business Owners,

A copy of this communication can be found at www.grantthornton.com.au/IAP.

Worked example

Please be advised that the Independent Allocation Panel (IAP) have released a worked example on the allocation of new quota shares based on the IAPs draft recommendations. A copy of the worked example has been attached below and can be found at www.grantthornton.com.au/IAP. The IAP notes that the quota share figures used in this example are for illustrative purposes only.

Draft report submissions

Submissions for Ocean Trawl – Fish Northern Zone and Inshore and Offshore Prawn, Ocean Hauling – Purse Seine Net, Ocean Trap and Line – Line Eastern Zone and Estuary General – Hand Gathering draft reports **have been extended**. Submissions will now close at **5pm** on the **14th of May**.

Submissions for the Ocean Trawl - Southern Fish Trawl draft report will still be closed at **5pm** on the **21st of May**.

Please send all written submissions to iap@au.gt.com or Independent Allocation Panel, c/o The IAP, Grant Thornton Level 17, 383 Kent Street, Sydney 2000.

For copies of the Terms of Reference for each fishery please visit <https://www.dpi.nsw.gov.au/fishing/commercial/reform/independent-allocation-panel>.

Yours sincerely,



Dr Daryl McPhee



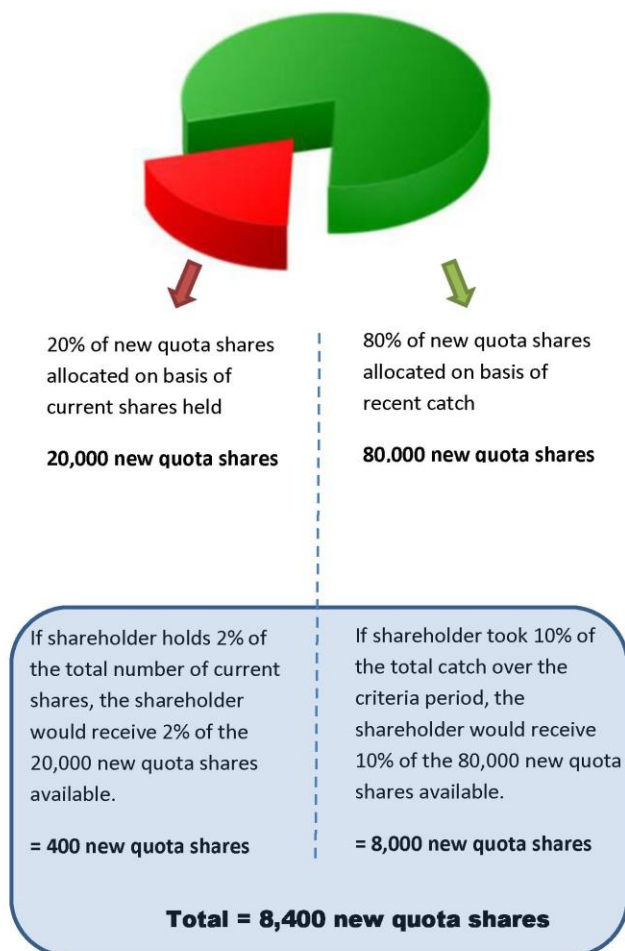
Susan Madden



Brett McCallum

Allocation of new quota shares based on the IAPs draft recommendations:

100,000 new quota shares available
(Nb: It is not the role of the IAP to determine the number of new quota shares)



Note: Fishers holding multiple share classes relevant to a new class of quota shares would receive an allocation based on all of those share classes.

The IAP notes that the quota share figures used in this example are for illustrative purposes only.

Appendix 7 – References

Documentation used:

Kaufmann, B., Geen, G. and Sen, S. (1999) Fish Futures: Individual Transferable Quotas in Fisheries. Fisheries Research and Development Corporation.

Lynham, J. (2012) How Have Catch Shares Been Allocated? University of Hawai'i at Mānoa Department of Economics Working Paper Series No. 12-19.

McDermott, M., Mahanty, S. and Schreckenberg, K. (2013) Examining equity: A multidimensional framework for assessing equity in payments for ecosystem services. Environmental Science and Policy, 33:416-427.

Pullen, J. (2012) An essay on distributive justice and the equal ownership of natural resources. American Journal of Economics and Sociology, 72(5):1044-1074.

Shotton, R. (2001) Case studies on the allocation of transferable quota rights in fisheries. FAO Fisheries Technical Paper. No. 411.