

## ***INDEPENDENT STRUCTURAL ADJUSTMENT REVIEW COMMITTEE MEETING #6***

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**FRIDAY 15th NOVEMBER 2013: 0930–1245 hrs**

**Teleconference**

### ***DRAFT* RECORD OF MEETING**

#### ***Members:***

Ian Cartwright (Independent Chair)

Sevaly Sen (Independent economist)

Mary Lack (Independent fishery manager)

#### ***Permanent observers:***

Andrew Goulstone (Director Commercial Fisheries, DPI)

Tricia Beatty (Executive Officer, Professional Fishermans Association) – joined 9:39am to 11:50am (did not participate in Agenda Items 8 & 9).

#### ***Executive Support:***

Veronica Silberschneider (A/Industry Liaison Manager)

### **1. Welcome, apologies and confirmation of agenda**

It was noted that the previous meeting minutes were confirmed by SARC via email as final.

The SARC discussed and agreed on some changes to the agenda, particularly the wording of some of the agenda items, noting that the SARC will not be reviewing and advising on individual proposals at this stage as the working group process needs to take its course.

### **2. Brief updates from DPI & PFA**

#### **Update from NSW DPI**

*Share Linkage Options* – 2<sup>nd</sup> round of Working Group (WG) meetings mostly scheduled. Options papers are being developed, placed on web, and to be discussed by industry. Industry are discussing the allocation figures as proposed in the options papers – they have some concerns over the fairness to individual outcomes/ or quotas stated under allocations. NSW DPI are using existing data and standard rules to set ITCALs (and to apportion amongst fisheries and share classes etc where necessary). There is a lot of discussion on this process in the options papers and discussion at WG meetings will be used to refine the figures. Developing meaningful/relative costings for the various options is proving very difficult to put together, understanding that this is a critical component for fishers to be able to make well informed business decisions.

*Exit grants* – work in progress. Positive discussions have been held with the NSW DPI economists and the Rural Assistance Authority who will administer the process. Sensitivity analysis is underway on various aspects of the method. DPI will seek to get more info out to industry on the principles of the exit grant and its purpose.

*Fees* – New fee structure in place as of 1 November 2013. Some spikes in share trading are probably due to this (mostly in Estuary General).

*Co-op study* – draft circulated. Comments current being received by GHD. See Agenda Item 6.

*Tender for consultation services* – open. To be discussed without the PFA representative in attendance.

*Share trading noticeboard* – scoping work being done by a New Zealand company. The DPI economist is supportive of funding this service. See Agenda Item 7.

*Staffing* – The Reforms Program Manager position has been filled. Applications for the Industry Liaison Manager position closed – 13 applications received.

#### Update from PFA

*Updated timeframe document* – Need an easy-to-read document that outlines the new timeframes and when the significant dates will be, to be sent out as soon as possible.

*Cost recovery* – Unknown what will future costs be. This uncertainty is a major concern in the process, making it especially difficult for fishers trying to business plan for the coming year and make decisions on whether to invest or apply for an exit grant. It is also a difficult package to take to a bank when seeking a loan for future investments.

*Estuary Prawn Trawl Share Linkage Options paper* – It has been rumoured that bits of information have been copied from the draft options paper and circulated amongst industry out of context and without the necessary qualifiers. PFA also outlined concerns of the rumour-mongering occurring in the industry that is scaring and causing significant anger.

*Treatment of WG members* – Abuse of working group members is reportedly occurring and is unacceptable. WG members are not making decisions, but are simply providing advice on shortlisting options only for broader consideration by shareholders.

*Share trading noticeboard* – Not many people are currently selling as it is hard for fishers to determine what their shares are worth. Some fishers are concerned that there could be a lack of shares to purchase when they need them. There are still concerns from industry that they might not be able to benefit from an exit grant if trading at the share class level only.

### **3. Discussion of issues raised in previous SARC letter to DPI:**

- a) Summary table of fisheries using template – few proposals for modifying template

It was noted that a draft template had been sent to DPI by SARC and that DPI had some suggested changes to the template.

**Action:** DPI to distribute a modified template to SARC and the table to be populated ASAP thereafter.

- b) Importance of transition process, balancing meaningful linkages, the need to provide active fishers in highly distorted fisheries with avenues to obtain shares or some transition to adjust, and the danger of reducing downward pressure on share prices during the exit grant.

SARC noted the range of transitional measure identified previously to ease the financial burden on fishers and encourages the WGs to consider those in the second round of meetings.

- c) Proposed approach to extinguishing fishing businesses (FBs) and whether DPI considers that doing that would result in legal challenges

DPI noted that FBs would not be extinguished; they would continue to exist as an administrative tool. The limit on FBs is currently used as an effort control tool but that can change if share linkages are strong enough. The current value in FBs exists because they are limited and transferable. If the limit is removed, it is envisaged the value (some or all) vested in FBs now would, over time, transfer across to the shares as they be the sole limited and transferable property right. It is acknowledged that the value of a FB will change if the limit is removed and that this is of concern to some fishers. Similar issues arise with consideration over the future of fishing boat licences.

**Action:** Provide industry with information, perhaps through the next reform newsletter and/or the reform website, outlining the situation surrounding the future of FBs.

- d) Active Facebook page includes misinformation – should there be active engagement by DPI or PFA through social media?

DPI recently appointed a social media officer. DPI now has a Facebook page which is Compliance based, as a test case to determine the effectiveness and resourcing necessary. Managing a dedicated Facebook page is likely to be highly resource intensive, as would any active engagement in externally run Facebook pages.

In the meantime, DPI suggests that the reform program website provides the best way of informing and updating everyone with current and correct information about the reform program. It was noted that reform webpage was in the process of being revised so that it was better structured and more current. The PFA noted it will shortly have a website which may answer some of the questions that industry wants to know.

- e) Cost recovery policy – hampering decision making (by its absence) – could be used as an on-going adjustment tool – what are the policy and legal issues?

It was acknowledged that the absence of a cost recovery policy is hampering decision making, and this was the basis for the SARCs last recommendation to cap fees for three years. In terms of legal issues, the *Fisheries Management Act 1994* is clear on what costs can be recovered, but there are administrative law principles to be considered. DPI is seeking legal advice on whether fees can be significantly increased for some share classes (above the fee changes recently implemented) to further assist with adjustment as discussed by the OTL WG.

**Action:** SARC to consider the legal advice when available.

- f) Uncertainty surrounding marine parks – is this a real issue for planning ahead?

This is not a reason to delay the current reforms. Marine Parks and RFHs are not part of this reform process and there is a separate marine estate review process. There are, however, other fishing closures/restrictions on fishing activities that can be addressed through the reform process, with their ultimate removal/relaxation dependent upon on the form and strength of the linkage.

**Action:** Provide industry with this information, perhaps through the next reform newsletter and/or the reform website.

- g) Updated timeline

Discussions still underway within Government.

**Action:** DPI to provide revised timeline to SARC and industry as soon as possible.

- h) Dates for next face to face meeting following 2<sup>nd</sup> round of WG meetings

**Action:** Wed 8 & Thu 9 January – Sydney.

- i) Feedback on recommendations from SARC meeting #5.

**5.1** – DPI understands importance of a revised timeline and will seek to provide it to SARC by end Nov and to broader industry ASAP thereafter.

**5.2** – To be included in the next reform newsletter.

**5.3** – To be included in the next reform newsletter.

**5.4** – To be considered during the second round of WG meetings.

**5.5** – DPI outlined some of the difficulties in working out relative costings of the options, particularly as the options are still not well formed. Concerns remain about the uncertainty this creates in the decision making process. DPI undertook to continue to work on this issue.

**5.6** – SARC to review legal advice on the use of fees as a restructuring tool once provided.

**5.7** – Progressing, with further positive discussions held with the DPI economists and Sevaly Sen.

**5.8** – To be considered during the second round of WG meetings.

**5.9** – To be considered during the second round of WG meetings.

**5.10** – Legal advice to be discussed at Agenda Item 8.

**5.11** – To be considered during the second round of WG meetings.

**5.12** – DPI noted that discussions were underway with a company to develop a set of specifications for setting up an online trading facility. This project continues to have SARC support.

**5.13** – DPI noted that the managers and science group met and developed a standardised way to set the ITCALs, based on 15 year average catch levels, noting that the effort data often limits the assessment period to 3 years when catch records were changed to collect more refined effort information. The modelling in the options papers reflect this method using the reported data, but it was noted that further adjustments are likely following the second round of WG meetings.

**5.14** – To be considered during the second round of WG meetings. PFA noted there are mixed views within the PFA about this but there is agreement that fishers need to be able to get a return on investment ASAP. Detailed discussion needed with SARC at the next face-to-face meeting.

**5.15** – DPI is in the process of drafting the paper. SARC noted if it would be good if it was decided prior to the next WG meeting, even if the findings were only preliminary. DPI advised that is unlikely as all relevant shareholders and permit holders would need to have a chance to comment on the options/proposals.

**5.16** – DPI continues to consider the use of FBs as an effort control as important until sufficient share linkages are in place.

**5.17** – Discussed under f), a work in progress.

**5.18** – DPI to continue to identify hotspots and assist where possible.

**5.19** – To be included in the next reform newsletter.

**5.20** – Noted that the Independent Chairs will be asked to provide a section for the WG meeting outcomes to highlight major or other issues discussed.

#### **4. SARC review of industry proposals**

The SARC discussed how it should review industry proposals, noting that the WGs should discuss all proposals referred to it and provide comments. The WG Chairs should guide discussions to make sure WG members understand the proposal(s). DPI should be very clear on whether the proposals are consistent with the Cabinet decision and Govt objectives. DPI will provide feedback to the party that initiated each proposal.

Anyone wishing to provide a proposal for consideration should use the template provided on the DPI website if they want it circulated. If a proposal comes to SARC, SARC will initially refer it to DPI or the relevant WG to consider.

**Action:** Add to next reform newsletter the process for reviewing new linkage proposals.

## **5. Previous SARC recommendations**

Addressed in Item 3(j) above.

## **6. Co-op study**

Sevaly and Mary have reviewed the draft report and have compiled some detailed comments/questions. It was noted it is difficult to assess the impact of the reforms on co-ops/regions if the co-ops remain anonymous in the report. While important, the viability of co-ops is peripheral to the harvest sector reforms and the ToRs of SARC.

- Actions:**
- SARC to be provided with details of the level of financial information that co-ops provided to the consultant.
  - SARC to provide DPI with comments on draft study which should be kept in draft form until next SARC meeting.
  - DPI to arrange a teleconference with the consultant, Sevaly, Mary and Andy to discuss the comments and questions directly.

## **7. Share trading noticeboard**

SARC considered the data provided by DPI on share trading, noting the increase in trading which appears to be directly correlated to changes in the share management charges. DPI is pursuing share trading noticeboard and are in discussions with a company that is preparing detailed specifications to ensure the platform is right before development. It is expected it will be completed in the first quarter of 2014, before exit grant program commences. SARC is supportive of DPI pursuing this option.

## **8. Discussion of legal advice relating to issuing new share classes using recent participation**

The industry observer, Ms Beatty, was excused from the meeting and SARC commenced discussions on the legal advice provided by DPI, noting the confidential and privileged nature of the advice and that it is being discussed by the SARC pursuant to the Confidentiality Deed Poll signed by each Committee member.

SARC discussed the legal advice provided, how and when recent participation might be used, and who would determine its use.

**Action:** The option of using recent participation to remain as an option for discussion by the WGs during the second round of meetings, noting that it should only be considered as an option in well justified cases and noting that a full consideration of the pros/cons would be needed before considering the proposal further.

## **9. Peak Body/Consultation services**

DPI provided an update on the tendering process for consultative services, noting that tenders are open and will close on 18 December. There is a strict probity plan in place and the tender evaluation committee is likely to be comprised of a senior DPI officer, a probity advisor, and one or two independent experts..

## **10. MFAC**

Nominations were called for membership on the MFAC and they are currently being considered by the Minister. It is hoped that the MFAC will be established to enable the inaugural meeting to occur early in 2014.

Teleconference ended.

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