

The Recreational Fishing Alliance of NSW

“Promoting Sustainable Fishing”

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The Hon. Niall Blair MLC
Minister for Primary Industries
Minister for Regional Water
Minister for Trade and Industry
Parliament House Sydney, Macquarie Street,
SYDNEY NSW 2000

29th July 2018

Dear Minister,

I am writing to you as a follow up to our recent meeting where we expressed the concerns of the Recreational Fishing Alliance of New South Wales (RFA) about the Public Consultation Paper “Transitioning the NSW Southern Fish Trawl Restricted Fishery to Commonwealth Management” recently released by NSW DPI and supported by AFMA. This paper only focused on one option which was the Departments view on what **will** happen, no other option was presented and the narrow Terms of Reference made it exceedingly difficult to engage and continually frustrated the recreational sector.

The RFA believes important stakeholders, including recreational fishers, indigenous, fishers, conservationists, commercial fishers and charter fishers have been ignored and excluded from the process and there have been no genuine attempts at engagement with them on this important issue over the previous 12 months despite repeated calls for inclusion. Reassurances from you at our meeting that no matter what we were told by the NSW DPI and AFMA that you had the final call in this determination were welcomed by the RFA.

Following on from our meeting and your request for more feedback from the RFA, the RFA met with the Commercial Fisheries Managers and four options were discussed.

The following 4 options were shortlisted for detailed analysis in a new business case;

- Exit Grant process which has been pegged at \$24m by the Southern Fish Trawl operators.
- Transitioning the SFT to the Commonwealth
- Reform the SFT and leave under NSW control
- Absorb it into the Northern Ocean Fish Trawl Share Management Fishery

The RFA believes that preparation of **Detailed Analysis of Short-list Options (Final Business Case)** for future management of the SFT is the responsibility of NSW DPI as it may result in changes to government policy or legislation, or have financial implications, and is the core business of the government. The business case and analysis of the full range of options has not been completed to date and until it is completed any NSW Government decision will fail to provide the citizens of NSW with confidence that a robust evaluation process was undertaken.

The RFA has already indicated a willingness to work with NSW DPI, NSW Industry Representatives, and the SFT operators to assist in developing this business case and help deliver the final piece of the NSW Commercial Fishing Reform Process that sets out a sustainable future for both recreational and commercial fishers in NSW.

A Detailed Analysis of Short-list Options - Final Business Case for the Southern Fish Trawl needs to be undertaken before any decision is made, the Terms of Reference need to be broad and include the 4 options presented above and access to information needs to be widely available to everyone.

A lot of time and money has been expended investigating the Transitioning option whilst ignoring some basic business case guidelines which I have attached as Annexure 1 below and I have also included some examples of NSW Governments Business Cases and some comments from the RFA of NSW.

Regards

A handwritten signature in black ink that reads "S. Konstantaras". The signature is written in a cursive style with a prominent initial 'S'.

Stan Konstantaras

RFA of NSW President

Annexure 1:

The Business Case

RFANSW believe that preparation of the business case for future management of the SFT is the responsibility of NSW DPI. It may result in changes to government policy or legislation, or have financial implications, and is the core business of the government.

The NSW Premiers Department has provided Business Case Guidelines¹ as a useful tool for improving service delivery and demonstrating accountability throughout the public sector. The Guidelines define a 'business case' as a form of advice to executive decision-makers. It is a substantiated argument for a project, policy or program proposal requiring a resource investment, often including a financial commitment. It sets out:

- the problem or situation addressed by the proposal;
- the features and scope of the proposed initiative;
- the options considered and the rationale for choosing the solution proposed;
- the proposal's conformity with existing policies, etc.;
- the implementation plan;
- the expected costs;
- the anticipated outcomes and benefits; and
- the expected risks associated with the proposal's implementation.

The government's Guidelines are designed to assist public sector organisations with the development of individual business cases by providing a method whereby agencies can assess and demonstrate the viability of proposed initiatives. The Guidelines are applicable whether the case is to be submitted to an internal decision-making body, a central agency, or an external funding source. Indeed, the business case framework itself is a useful method for systematically evaluating the strengths and weaknesses of any proposal that will bring about a major change in practice or funds allocation such as the transfer of fisheries jurisdiction proposed for the SFT.

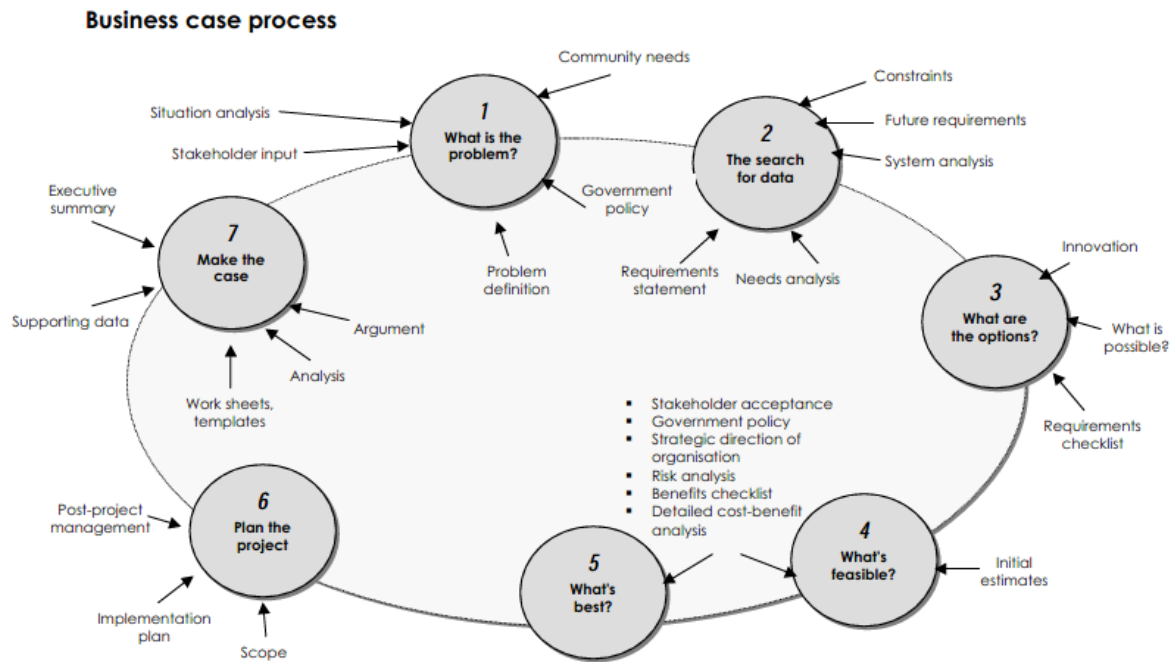
The Guidelines require that rigorous examination of the options, costs and risks of any initiative must be an integral part of project, program or policy planning, management and evaluation and therefore provide a sound framework for NSW DPI's business case for the future of the SFT.

Project proposals, funding submissions, feasibility plans and value management studies are all forms of business cases and are drawn up for a wide variety of proposals including major strategy or policy change proposals for delivery of services to clients. The transfer of management jurisdiction over the SFT to the Commonwealth clearly falls within this scope.

The Guidelines explain why a business case is needed including why each agency, and in turn each of its cost centres, has a responsibility to ensure optimal use of public resources and why rigorous examination of options, costs and risks needs to be an integral part of all project, program or policy planning, management and evaluation. The Guidelines also stress the need to be rigorous, objective and honest in application and the impact on the environment should also be discussed.

The process outlined in the Guidelines diagram below clearly shows the requirement for stakeholder input and recognition of community needs at the very start of the process of identifying the problem.

¹ <https://www.finance.nsw.gov.au/policy-document/business-case-development-guideline>



Business Case Process²

RFANSW believes the business case for future management of the SFT should comply with the NSW Government's Business Case Guidelines. RFANSW will work with the Government, NSW DPI and other stakeholders to deliver a robust business case identifying and supporting the best outcome for the environment, the fishers and the people of NSW by providing input into every stage of the business case process.

1. What is the Problem

The business case must contain the basic argument for any proposed change, describe the current situation and outline the strategic issues. The case must demonstrate discussion and consultation with all those affected, including participants, collaborators and recipients/users of the proposed policy, program or system. The views of all key stakeholders, such as the community, clients, staff and staff associations need to be made clear. Supporting information, such as evidence of stakeholder consultation, should be provided in an appendix.

RFANSW believes there are **two** significant problems to be addressed. The first is that the process to date has not been transparent. It has not examined all options and has alienated important stakeholders through lack of consultation and engagement, and by withholding relevant information. The NSW Government must ensure that all relevant stakeholders including recreational fishers, charter boat operators, fishing tackle and boating service providers, environmental groups and Indigenous fishers are consulted and that the likely impacts of any proposed changes to management on their activities and businesses are fully

² Business Case Guidelines – NSW Premier's Department Review and Reform Division 2000

addressed. The preparation of a sound business case with thorough stakeholder consultation can address this problem.

Secondly, the reasons for the transfer of jurisdiction of the SFT proposed in the Public Consultation Paper (PCP) “*Transitioning the NSW Southern Fish Trawl Restricted Fishery to Commonwealth Management*” have not been explained. The PCP did not provide any justification for the proposal, did not consider the numerous alternatives and did not provide a cost-benefit analysis of the proposal.

The business case must clearly identify the real problems that beset this fishery in terms of management overlap, management costs, quota rorting, commercial viability, inter-fishery conflict, resource sharing, environmental degradation, sequential depletion and impacts on non-quota species.

Whatever the identified reason/s, changing management arrangements should only be considered if it is advantageous for NSW in the long-term and is consistent with the objects of the FMA 1994. Pleasing AFMA or appealing the Commonwealth is not sufficient reason for change.

The Search for Data

The data required for informed decision making depends on clear exposition of the proposed transfer of jurisdiction's scope including the purpose, planned outcomes and proposed timeframe and milestones.

Fishery Related Data

Basic fisheries data on the catch composition and catch value, including discards, of quota and non-quota species and by-catch is essential. Suitably aggregated information on the profitability or otherwise of the relevant vessels in the fishery is also required. The costs of management to NSW and the Commonwealth of current management and all options must be provided. The costs to fish trawl operators of each option must be made available.

If there are possible benefits identified from an option the business case should say how the proposed benefits will be delivered and measured, who is responsible for measuring and reporting on the achievements and who will conduct future evaluation and post-implementation reviews.

Legal Advice

The legal basis for options must be clear including any proposed changes to legislation or inter-governmental agreements such as OCS. Legal opinion on the enforceability of constraints such as trip limits imposed on operators and the efficacy of Memoranda of Understanding must be provided.

The impact of the entry of non-active vessels into the SFT or latent effort entering the fishery inside 3 nm on other NSW commercial fisheries, recreational fishing and the environment would be severe. Advice should be sought on how or whether this could be prevented under any proposed management regime if management of the area were ceded to the Commonwealth.

Consistency

Most commercial fisheries in NSW are managed as share management fisheries which provide strong property rights for participants with provisions for compensation in certain circumstances. The future management of SFT should be consistent with that of other NSW commercial fisheries and operators adversely affected by management changes should be treated fairly

Community Support

The impacts of proposals on other fishers and the wider community need to be assessed through consultation with all stakeholders, not just a select group of commercial fishers.

Assessment of options

RFANSW raised four options in discussion with the Minister and Fisheries Management:

- Exit grant process which has been pegged at \$23m by the Southern Fish Trawl operators.
- Transitioning the SFT to the Commonwealth
- Reform the SFT and leave under NSW control
- Absorb it into the Northern Ocean Fish Trawl Share Management Fishery

The “base case” of doing nothing remains as an additional unstated option.

RFANSW believes the business plan should include these and any other feasible options, and describe objectively what would happen if that option were selected. The consequences should contain financial modelling to allow comparison and assessment of feasibility.

The preferred option must include a detailed cost-benefit analysis with projections into the future to allow long-term impacts to be evaluated. A proper risk assessment may be warranted at this point with full stakeholder engagement to ensure all potential risks are identified and assessed.

The preferred option must reflect the best long-term outcome for the people of NSW and the marine environment.

What's Feasible

The assessment of feasibility must balance the likely impacts on other NSW fishers and the environment with the costs and benefits to affected NSW fish trawl operators. The support of fish trawl operators and other stakeholder groups will be a key factor. The likelihood of funds being provided by the NSW and/or the Commonwealth governments will also help dictate what is feasible.

What's Best

While a number of options may be technically achievable, and even feasible, the best option must be chosen taking into account the wider implications of any proposed management changes.

RFANSW is concerned that any transfer of jurisdiction may result in new vessels and gears entering the fishery, increased fishing effort, changed targeting practises, and adverse impacts on target and non-target species and the environment that may detrimentally affect other fisheries including the recreational and charter boat sectors.

These factors must be properly considered and their consequences adequately addressed.

Additionally, RFANSW was approached by representatives of the NSW Southern Fish Trawl Restricted Fishery with the view to work collaboratively to offer the 23 operators a dignified exit from the SFT and to oppose transition of management to the Commonwealth for the following reasons:

- The catch (at an arguable 1.59%) is an insignificant component of the CFT and will not significantly affect fresh fish supplies

- NSW does not need 25m boats inside 3 miles
- NSW does not need any more fish trawlers inside 3 miles
- Closure would be cost effective in the long term
- NSW stakeholders do not want fish trawlers operating along south coast beaches
- Increased fish trawling effort from CFT previously excluded inside 3 miles will damage inshore fish stocks of non-CFT species
- Access inside 3 miles by SESSF operators will allow the use of gears currently prohibited in NSW fisheries and result in targeting of non-CFT species
- Fish trawling inside 3 miles is, and will increasingly be, in conflict with the more economically valuable and socially beneficial recreational and commercial fisheries and unmanageable by NSW
- Fish trawl management off NSW by AFMA has not satisfied the objects of their FMA 1991 and expansion into NSW waters will not satisfy the objects of our FMA 1994.
- No workable mechanism for the future management of important species taken in NSW commercial and recreational fisheries e.g. snapper and kingfish was provided
- No mechanism for the resolution of future conflict or resource sharing between the Commonwealth managed trawl fishery and NSW managed fisheries operating in the same waters was provided.
- All relevant stakeholders including recreational fishers, charter boat operators, fishing tackle and boating service providers, environmental groups and Indigenous fishers would benefit from the removal of this trawl effort.

RFANSW supports the closure of waters inside 3 nm to fish trawling south of Barrenjoey with the provision of fair exit grants to affected fish trawl operators. This will produce the best long-term outcome for the recreational and other commercial fishers of NSW and other users of this area.

Annexure 2:

Business Case Example:

https://www.industry.nsw.gov.au/_data/assets/pdf_file/0011/143030/Broken-Hill-long-term-water-supply-solution-summary-of-final-business-case.pdf

Annexure 3:

RFA Position on the PCP.

Comments on Public Consultation Paper

“Transitioning the NSW Southern Fish Trawl Restricted Fishery to Commonwealth Management”

Re Introduction

The *Introduction* presents the transition as a *fiat accompli* i.e. the decision to cede management to AFMA has already been made without consultation with all the relevant stakeholders. The Paper is biased and deficient and does not provide any **justification** for the transition. Presumably the AFMA wishes to remove opportunities for quota roting by dual endorsed vessels by including all catches of the prescribed SEF quota species within their quota management system. Note that the SFTF has been managed by NSW since the inception of the fishery.

1. What are the reasons for considering the transition?
2. How many boats would be affected, what is their history of catch by species and what NSW and Commonwealth fishing rights do they hold?

Whatever the reason, changing the management arrangements should only be considered if it is advantageous for NSW in the long term and is consistent with the objects of the FMA 1994. Pleasing AFMA or appeasing the Commonwealth is not a good enough reason.

The Paper does not explore the options available. These include:

3. Doing nothing and continuing to manage fish trawling as a restricted fishery
4. Turning the fishery into a share management fishery either by incorporating it into the existing Ocean Fish Trawl Northern Zone (with quota for relevant species) or as a stand-alone SMF fishery (with quota for relevant species)
5. Introducing a QMS for the SEF trawl fish species in a continuing restricted fishery
6. NSW closing the area to fish trawling.

The Paper also does not provide any **pros and cons** for the various other management options. This is, of course, hard to do without any justification being provided. It also does not provide any estimate of the overall **costs** (not just operator costs) of the transition which would allow proper weighing of the options. **No negative impacts** are considered and no **cost benefit analyses** provided.

- What would a negotiated buy-out of all NSW endorsed SFTF vessels cost?
- What would a negotiated buy-out of only dual endorsed SFTF vessels cost?
- What will be the impact of the entry of previously non-SFTF endorsed CTS vessels entering the fishery inside 3 miles on other NSW commercial fisheries, recreational fishing and the environment.
- What will be the costs to currently endorsed SFTF operators in terms of licensing, levees, quota and other costs?

The NSW Ocean Trawl Fish Northern Zone catches many of the same species as those taken in the SFTR e.g. cuttlefish, southern calamari, eastern school whiting, stout whiting, tiger flathead, sand/bluespot flathead, silver trevally, gurnard/latchet, john dory, angel shark, redfish, leatherjackets, ocean perch, mirror dory, rubberlip morwong, and numerous shark spp. And is proceeding to quota management.

- How does NSW intend to manage these cross jurisdictional species in a holistic or ESD framework after the transition when all fish trawl catch levels for the SEF quota species inside 3 miles south of Barrenjoey will be set by AFMA?

The Objectives of the Commonwealth's *FMA 1991* are provided.

- implementing efficient and cost-effective fisheries management on behalf of the Commonwealth;
- ensuring that the exploitation of fisheries resources and the carrying on of any related activities are conducted in a manner consistent with the principles of ecologically sustainable development (which include the exercise of the precautionary principle), in particular, the need to have regard to the impact of fishing activities on non-target species and the long term sustainability of the marine environment;
- maximising the net economic returns to the Australian community from the management of Australian fisheries;
- ensuring accountability to the fishing industry and to the Australian community in AFMA's management of fisheries resources; and
- achieving government targets in relation to the recovery of the costs of AFMA.

The Objects of the NSW FMA 1994 (see below) are not provided as there are glaring inconsistencies between the two Acts e.g. there is no reference to recreational fishing in the FMA 1991; no reference to "appropriately sharing" etc.etc.

FISHERIES MANAGEMENT ACT 1994 - SECT 3 Objects of Act

3 OBJECTS OF ACT

(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.

(2) In particular, the objects of this Act include:

- to conserve [fish](#) stocks and key [fish habitats](#), and
- to conserve [threatened species](#), [populations](#) and ecological communities of [fish](#) and [marine vegetation](#), and
- to promote [ecologically sustainable development](#), including the conservation of [biological diversity](#), and, consistently with those objects:
 - to promote viable commercial [fishing](#) and [aquaculture](#) industries, and
 - to promote quality recreational [fishing](#) opportunities, and
 - to appropriately share [fisheries](#) resources between the users of those resources, and
 - to provide social and economic benefits for the wider community of New South Wales, and
 - to recognise the spiritual, social and customary significance to [Aboriginal persons](#) of [fisheries](#) resources and to protect, and promote the continuation of, [Aboriginal cultural fishing](#).

Note : At common law, the public has a right to [fish](#) in the sea, the arms of the sea and in the tidal reaches of all rivers and estuaries. The public has no common law right to [fish](#) in non-tidal waters--the right to [fish](#) in those waters belongs to the owner of the soil under those waters. However, the public may [fish](#) in non-tidal waters if the soil under those waters is [Crown land](#). In the case of non-tidal waters in rivers and creeks, section 38 declares that the public has a right to [fish](#) despite the private

ownership of the bed of the river or creek. However, the right to [fish](#) in tidal or non-tidal waters is subject to any restriction imposed by this Act.

Some purported “**benefits of transitioning**” are listed.

- fish trawling activities in south-east Australia will be managed by a single jurisdiction and many fish species will have a cap on how much can be caught each year;
- increased consistency of data collection will allow for an improved understanding of stock status, ensuring sustainable fish stocks and continued supply of local seafood;
- fishers currently operating under two sets of rules will be managed by only one jurisdiction, removing duplication and administrative burden for those fishers, and, where the required concessions are held, fishers will be able to complete a single trip when fishing inside and outside NSW waters;
- security of access for NSW fishers will be increased due to the granting of valuable species-based statutory fishing rights; and
- trip limits that have constrained efficiency and profitability will be removed.

The management benefits are all to AFMA and there are no real benefits to the operators. There nothing to stop NSW placing a cap on the catch of vessels in its waters. In fact you may well ask why this has not been done already either as an ITQ or a TAC. Improved “consistency of data collection” will not ensure continued supply of local seafood. Sorry, it will take much more than that.

The “removing duplication and administrative burden” through management by one jurisdiction is inconsistent with the “immediate operational changes such as the requirement to use Vessel Monitoring Systems (VMS), carry observers and use seabird mitigation devices”. This will increase the costs to operators. No information on the costs of these measures to other current or potential users such recreational fishers is provided.

The suggestion that security of access will be approved is fatuous given that the SFTF was purposely excluded from the valuable now species-based statutory fishing rights system of NSW Share Management Fisheries, presumably to avoid triggering compensation when it was closed.

The suggestion that trip limits would be removed to increase efficiency and profitability in the expanded CTS now accessing new inshore snapper and kingfish grounds and targeting bream, luderick, whiting and mulloway into NSW beaches is management madness.

Scope of Transition

It is important to note that the proposed changes will only relate to the capture of “certain species”. The Paper **does not tell us which species**. This is disingenuous in the extreme. This first paragraph should be read very carefully. The Paper says “These waters and methods will be cede to the Commonwealth for the taking of certain species”. This implies that only otter trawl net (fish) and Danish seine trawl net may be used in the area in the future. However, former operators in the SFTF will be managed as part of the CTS **and the**

Southern and Eastern Scalefish and Shark Fishery (SESSF). In the SESSF other gear is allowed including [danish seine](#), [midwater trawl](#), [pair trawl](#), [purse seine](#), [bottom longline](#), [automatic longline](#), [dropline](#), [demersal gillnet](#) and [trap](#). All but two of these methods is currently banned inside 3 miles and trap is included in the NSW Ocean Trap and Line SMF.

- Which species will be ceded to the Commonwealth?
- How will NSW prevent other gear types being allowed inside 3 miles by AFMA through current SESSF operators or the issue of new SESSF entitlements?
- How will all the other species, and there are very many, be managed by NSW in that area?
- How will NSW manage the bycatch of non-CTS species taken by CTS operators?

The numbers provided are rubbery. Of 23 fishing businesses **eligible** for CTS rights under this proposal “around half” do not have any SESSF rights, so around half the others do. The may provide an indicator of the number of vessels who may want to exercise their SESSF rights inside 3 miles. The real question is the number of CTS fish trawl dual entitlement holders.

- How many of the eligible operators (businesses?) have CTS rights?
- What determines “eligibility” under this proposal, it is not stated?
- Does it mean they have an endorsement in the NSW restricted fishery?
- Does it require active participation e.g. through catch history or are inactive endorsements eligible?

OCS

The OCS cedes the management of certain fish species by certain methods in certain areas off NSW to the Commonwealth. All other species by all other methods in all other waters are to be managed by NSW. It makes no reference to commercial or recreational fishing. The OCS underpins not just commercial fisheries management including our trap and line fisheries, prawn trawl fisheries and recreational fishing for all species. Changing the OCS could irrevocably change the management of fisheries, gears and species off NSW with profound impacts on other sectors.

Given the importance of the OCS to the management of all fisheries in NSW no changes should be made without a thorough understanding of the likely consequences based on sound legal advice and with extensive, informed consultation with all stakeholders.

Resolution of AFMA’s problems with fish trawling inside 3 miles is achievable without changing the OCS.

Overview of Management of the CTF off NSW

The management of this fishery off NSW has been a disaster from its beginning with sequential overfishing of key species leading to severely damaged fish resources. Despite several substantial buy outs in the mid-nineties and the mid-two thousands the decline has continued. Dr Kevin Rowling provided a succinct assessment of the failings of AFMA management at the Fish Biology Conference in 2016. Below are two slides from his presentation. The failure of the catch of many species to reach their TACs shows a fishery in decline. The depletion of redfish, once an important recreational species, exemplifies the tragic consequences of overfishing by the CTS.

- Why would any competent authority allow AFMA to expand its failed management into sensitive inshore waters?
- How could NSW manage the inevitable conflict between CFT trawlers and NSW commercial and recreational fishers inside 3 miles in the future?

The Removal of Trip Limits

This argument does support the proposed transitioning as NSW is bringing in quota management for the Ocean Trawl and Ocean Trap and Line Fishery. The Paper provides a sound justification for bringing Southern Fish Trawl into the NSW QMS.

Size Limits

Is the Paper arguing that NSW should also remove all size limits when NSW SMFs move to quota management? If so, it ignores the body of science that underpins the size limits that have contributed to the sound management of most species in NSW. The lack of size limits in Commonwealth managed fisheries are one of the reasons for their collapse of NSW.

Cost Recovery

NSW has been trying to implement cost recovery in commercial fisheries since 1994 with little progress.

THE POSITION

The fish trawl restricted fishery within 3 miles south of Barrenjoey should be **closed** for the following reasons:

- The fishery in its current form enables roting of the AFMA QMS
- The catch (at an arguable 1.59%) is an insignificant component of the CFT and will not significantly affect fresh fish supplies
- Fish trawling inside 3 miles is environmentally damaging
- NSW does not need 25m boats inside 3 miles
- NSW does not need any more fish trawlers inside 3 miles
- Closure would be cost effective in the long term
- NSW stakeholders do not want fish trawlers operating along south coast beaches
- Increased fish trawling effort from CFT previously excluded inside 3 miles will damage inshore fish stocks of non-CFT species
- Access inside 3 miles by SESSF operators will allow the use of gears currently prohibited in NSW fisheries and result in targeting of non-CFT species
- It can be achieved without changing the OCS
- Fish trawling inside 3 miles is, and will increasingly be, in conflict with the more economically valuable and socially beneficial recreational fishery and unmanageable by NSW
- Fish trawl management off NSW by AFMA has not satisfied the objects of their FMA 1991 and expansion into NSW waters will not satisfy the objects of our FMA 1994.

The Commonwealth should pay existing dual licensed operators an ex-gratia payment on surrender of their NSW endorsement. That ex-gratia payment should be based on the value of their catch taken in that area according to NSW catch returns. NSW should provide ex-gratia payments to any restricted fishery endorsed operator who does not hold a Commonwealth entitlement. A Memorandum of Understanding with the Commonwealth and an investment warning should outline the intent of NSW and the Commonwealth and co-ordinate the determination of the quantum of ex-gratia payments.

Objective 1. Conservation of Fisheries Resources - Catch vs TAC 2014/15

Significantly depleted stocks

SPECIES	TAC t	2014/15 Landings	%
Ling	1015	967	95
School Whiting	872	798	92
Flathead	3142	2838	90
Ocean Perch	208	188	90
Blue Eye	355	269	76
Redfish	164	78	48
* Orange Roughy (E+W+S)	120	53	44
Royal Red Prawn	372	146	39
Gemfish - east	100	37	37
Gemfish - west	217	72	33
John Dory	242	66	27
Mirror Dory	968	225	23
Jackass Morwong	623	123	20
Blue Grenadier	7205	1381	19
Blue Warehou	118	16	14
Silver Warehou	2553	368	14
Silver Trevally	691	93	13
Total	18965	7718	41

12 Species < 50% of TAC

7 Species < 30% of TAC

* Note – In 2015/16 a TAC of 500 t was set for Orange Roughy (east)

Source: AFMA Catchwatch 2014/15

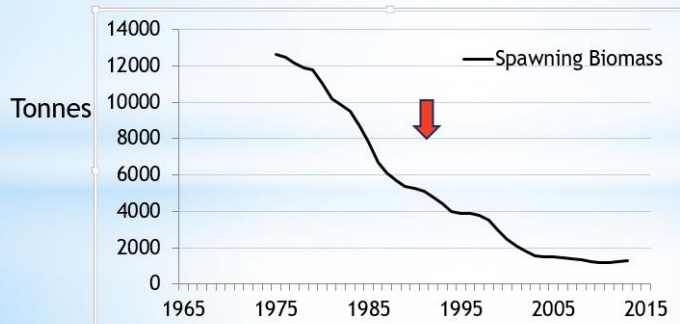
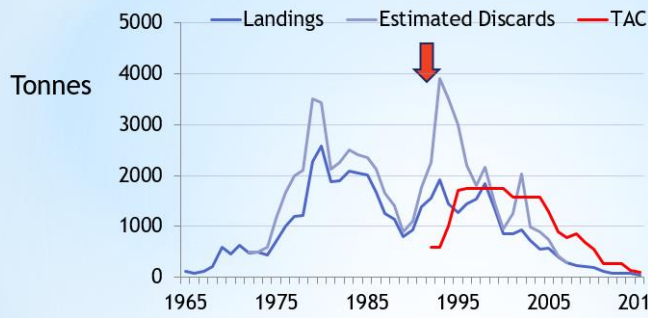
Kevin Rowling - 25 Years of Quota Management of the SEF

ASFB 2016 Hobart

Redfish



Centroberyx affinis



Kevin Rowling - 25 Years of Quota Management of the SEF

ASFB 2016 Hobart

Annexure 4:

RFA position on RA

CARDNO RISK ASSESSMENT (RA)

TRANSITION OF THE NSW SOUTHERN FISH TRAWL RESTRICTED FISHERY TO COMMONWEALTH MANAGEMENT

11th April 2018

Please find attached additional comments on the Cardno Risk Assessment for the transition of the NSW Southern Fish Trawl Restricted Fishery to Commonwealth Management.

The Recreational Fishing Alliance of NSW has once again expressed disappointment at the way this whole process has been managed. The RA was made available online technically after the Consultation period closed, the one week extension was not widely publicised and those other stakeholders who took the time to make a submission before the deadline have been left disadvantaged by not having all the documents available.

The Recreational Fishing Alliance has formed a Sub Group and has reviewed the RA and has discussed its recommendations but still cannot understand why anyone would ask for a Risk Assessment that is constrained in such a way as make it virtually useless. A proper Cost Benefit Analysis would have been more useful. The Sub Group has continually challenged the way this process has been delivered and once again this RA looks like a kneejerk reaction and was certainly commissioned without consulting all the stakeholders.

The Sub Group feels that Cardno have not met the Terms of Reference given by DPI, most particularly point 4 of the ToR. Perhaps DPI and AFMA would not allow the data to be accessed, this needs further discussion. The Sub Group also believe that Cardano have not conducted the RA to the required Australian Standard. Their failure to consult, possibly directed by DPI due to a rushed and flawed consultative timeline has rendered the RA useless. Questions need to be asked around value for money in this instance and the process.

The Sub Group were also concerned about the disparity in options canvassed in the Risk Assessment that were not in the Public Consultation Paper. The Partial, Patchwork or Full Closures of the area inside 3 miles appearing in the RA were obviously being considered by DPI so why weren't they provided in the PCP? One might ask, what else is on the table we haven't been told about e.g. adjustment funding which is mentioned in the RA and must be a part of any closures but were not explored in the PCP.

This process needs to be stopped and a serious attempt needs to be made to gets things back on track. The Sub Group needs to see the justification for why it is a restricted fishery now, why it needs to change and what the options are. What's needed is real information on catch, effort, catch composition, catch value, and licence and endorsement values. We also need to know what all the other fisheries in the area take with real data as above. That includes the recreational and charter sectors.

The Sub Group and most of the 850,000 anglers in NSW share a the vision about what we want to see inside 3 miles in the next 10, 50 and 100 years and this is not just about Commercial Fishing as it has historically been, but even more importantly to all sectors it's about the fish and habitat. When this is properly acknowledged then there can be proper, informed consultation and negotiation about the best long-term solution for NSW as a whole.

CARDNO RISK ASSESSMENT (RA) TRANSITION OF THE NSW SOUTHERN FISH TRAWL RESTRICTED FISHERY TO COMMONWEALTH MANAGEMENT

Study Aims and Objectives

This report is deeply flawed by failure to engage relevant stakeholders and does not meet the Cardno's Study Aims of determining "a suitable risk assessment procedure" and "identifying hazards and benefits associated with proposed changes" or the Terms of Reference (ToR) set by DPI.

Cardno's ToR required the consideration of "Commonwealth and NSW licensing data including vessel length; and vessel level of catch and effort data (by species) to determine historical fishing behaviour". Note that these data were not used (see 1.3.2 Data Analysis which lists the data "unavailable" to the RA including licensing data, stratified catch and effort data, and the sale/transfer value of SFTF concessions and SFR values, catch values and management contributions). The failure to consider fundamental extant information delivers a superficial approach and hollow recommendations.

Australian Standard

The risk assessment procedure does not conform to **Standards Australia ISO 31000:2009 Risk Management – Principles and Guidelines** which requires communication and consultation and with stakeholders about the existence of risks, their nature, form, likelihood and significance as well as whether or not risks are acceptable or should be treated, and what treatment options should be considered. Note, a **stakeholder** is a person or an organization that can affect or be affected by a decision or an activity. Stakeholders also include those who have the perception that a decision or an activity can affect them. ISO 31000 distinguishes between external and internal stakeholders and only internal stakeholders were consulted for this RA. External stakeholders were excluded from this RA and it shows.

Consequently significant risks were not identified or considered undermining the ranking of risks, the assessment of risks and benefits associated with the two management scenarios considered, and the options for their mitigation.

Contrary to requirements Cardno did not convene an Expert Panel for the determination and assessment of risks resulting in a flawed report.

Risk Management Guidelines (2.1 p3)

The RA lacks precision by attempting to consider the impacts of relatively small-scale management changes (i.e. within 3 miles) "at a broad area, that is, without particular spatial resolution within the current operating areas of the fishery".

Cardno's risk analysis methodology purports to mainly deal with impacts on the environment but "has also been interpreted to analyse relevant social and economic hazards". This is clearly an overstatement as the RA omits many environmental impacts including impacts on non-target and non-SEF quota species, the negative impacts of trawl gear (including bobbin gear) on sensitive inshore habitats, and the targeting of spawning fish in inshore waters. The economic impacts on the valuable inshore recreational fishery is omitted.

The real impacts of the proposals on other commercial and recreational fisheries are not properly addressed as Cardno admits the RA "focuses on the potential effects on the SFTF".

Likelihood and Consequences (p4)

The Consequences (Environmental) do not consider the impacts on important non-quota species such as snapper and kingfish.

The Consequences (Social) are inappropriate as they fail to consider important flow-on impacts such as depletion of forage or bait species utilised by important species or other fisheries.

The Consequences (Economic) are too narrow. They only consider the profitability of trawl fishers and not the potential economic impacts of the proposals on other commercial fishers, recreational fishers or the industry that supports it, or on the NSW charter boat fishery.

Option 1 (2.2.4 p6)

To whom would the quota be transferred to under Option 1 prior to the IAP to then transferring it to SFTF endorsement holders?

Commonwealth SFRs and quotas are allocated to people. Under the Commonwealth Fisheries Management Act 1991 the **"holder"** of a licence, permit or right: (a) means: (i) the person to whom the licence, permit or right was granted; or (ii) if the permit or right has been transferred--the person to whom the permit or right was last transferred; and (b) in the case of a [statutory fishing right](#) that is [leased](#) to another person by a [lease registered](#) under [section 46](#)--includes the lessee of the [statutory fishing right](#).

Note that nowhere under the proposed Conditions of NCW Permit of Option 1 is mid-water trawling or pair-trawling prohibited inside 3 miles.

Spatial Closure Scenarios (2.2.5.2 p8)

What is the point of proposing "patchwork" closures that have as "yet to be determined"? This is nonsense.

Risk of Management Changes Table 3.1 (p14-16)

The usefulness of this table is nullified by the deficiencies in the risk identification process identifies above. The risk ratings (Likelihood and Consequence) reflect the lack of expertise in the assessment panel. A properly convened expert panel would have produced a very different set of risks and different risk ratings. The use of subjective expressions like "perceived" further weakens the table.

Benefits Table 3.2 (p17)

Many of the identified benefits are wrong. The first and second Actions, i.e. no change, are not benefits. The third is an environmental cost. The benefit of the sixth Action is identified as "approval from NSW stakeholders". How can this be when none were consulted? The benefit from Action seven, "Increased catch of SFTF (incl. non-quota species)" would result in increased conflict with other fisheries so can't be listed as a benefit. Action seven "Mid-water trawling and pair-trawling would be permitted in NCW is listed under Options 1 and 2 but is precluded under Option 2 (see p 7). The supposed benefit under Action nine, that "Quotas offer greater predictability about catch and earnings" would be news to most long-term operators in the CTS.

On **page 18** no evidence has been provided to justify the first benefit that "combination of CTS quota SFR and NCW Permit or Vessel SFR will have a greater transfer/sale value than NSW SFTF endorsement. The next benefit that "TAC/quota management is potentially more sustainable" is not supported by any evidence. The third benefit on this page concerning the removal of minimum sizes is risible. Any supposed benefit to trawl operators would be heavily outweighed by the negative environmental impact on fish stocks and opposition from other NSW fishers constrained by the NSW limits.

Conclusion and Mitigation

The only useful recommendation is that the recreational sector be consulted further.