Key Findings and Recommendations[1]

TOR 1 – Fisheries Management – governance and administration

Finding: The internal fisheries management decision-making processes within the Fisheries Division lack transparency, clear acceptance of responsibilities and a collegiate and co-ordinated approach. This has led to confusion and frustration among stakeholders, a breakdown in governance arrangements and continual delays in implementing a comprehensive reform agenda.

> **Recommendation 1.1: That the Minister ensure that appropriate powers are delegated to the Department and exercised to enable operational decision making to occur at the responsible level in the Department, with adequate reporting to the Minister to ensure accountability and transparency.**
>
> **Recommendation 1.2: That the Executive Director, Fisheries take all steps necessary, including the creation of a formal Executive Management Group, to ensure the implementation of a co-operative and collegiate decision-making approach which guarantees involvement of the areas of management, research, compliance and administration with an overall resource focus rather than an emphasis on sectoral (commercial, recreational, Aboriginal and conservation) interests.**
>
> **Recommendation 1.3: That the responsibility for ensuring that this co-ordination and co-operation flows through into servicing the Advisory Committee/Tasked Working Group processes lies with the Directors of Commercial and Recreational and Indigenous fisheries under the guidance of the Executive Management Group; further, that priorities for research and compliance activities should also be driven significantly through this process.**
>
> **Recommendation 1.4: That delegated powers are provided to the Executive Director, Fisheries so that this position can exercise decision-making responsibility arising from the Advisory Committee/Tasked Working Group processes which report to this position.**

Finding: Because of the need to focus on and achieve significant industry adjustment and restructuring and organisational change, it would be inappropriate, given the likely costs, disruption and administrative burden of such a change, to move to an alternative management model at this time.

> **Recommendation 1.5: That the existing public sector arrangements for the management of NSW fisheries remain with NSW DPI incorporating a Fisheries Division and that a separate statutory Authority model not be pursued at this time. However this review recommends significant changes to the current Departmental model.**

Finding: The process for allocating funds from the Commercial Fishing Trust Fund is unnecessarily complicated by treating the source of funds differently. All funds, whether from consolidated revenue or industry management charges are required to be set against the costs of managing fisheries, especially since only a low proportion of total costs are currently being recovered. Further, none can be regarded as 'industry funds' available for the discretionary use by industry. However, there should be greater transparency through industry consultation on the total expenditure by the Fisheries Division on fisheries management.

---

[1] Note that only the major recommendations are provided here. A number of other recommendations are made in the main body of the document.

Recommendation 1.6: That the Commercial Fisheries Trust Fund continue to receive all funds from industry, and these, together with consolidated revenue funds, be directed to offsetting the costs of fisheries management. To enhance transparency and accountability, industry should be consulted on the priorities for expenditure across both sources of funds.

Finding: Currently, industry contributions toward the costs of fisheries management, compliance and research are very low, with the exception of the Abalone and Lobster fisheries. There is currently no formal cost recovery policy in place to guide fisheries management and encourage the efficient delivery of services. It will be necessary to recover a higher proportion of such costs to ensure the continued delivery of necessary services and change the current settings, which promote the persistence of latent effort.

Recommendation 1.7: That current management charges be progressively increased, initially in the form of a flat charge per share class, irrespective of the level of shareholding or catch, to recover a higher proportion of management costs and facilitate the structural adjustment process.

Recommendation 1.8: That the task of developing a formal cost recovery policy be undertaken as a priority activity by the Ministerial Fisheries Advisory Council (see Recommendation 2.1)

TOR 2 – Consultation framework

Finding: The current arrangements for consultation, communication and receiving advice in NSW fisheries are inefficient, counter to supporting good governance and do not provide the transparency necessary to achieve adequate understanding and support from stakeholders.

Recommendation 2.1: That the Minister forms a Ministerial Fisheries Advisory Council, initially under s.229 of the Act, comprising expertise based membership across the full range of skills and stakeholder interests involved in fisheries management. The Council should focus on strategic policy issues rather than operational matters and form working groups when necessary to address specific issues.

Recommendation 2.2: That the Act be amended with respect to the establishment of Management Advisory Committees to provide for their appointment and receipt of advice by the Executive Director Fisheries, rather than the Minister; further, that their appointment be through the calling of nominations from interested persons and not by election.

Recommendation 2.3: That the Seafood Industry Advisory Council be disbanded as a statutory body.

Finding: The Minister's Office has been used inappropriately by industry lobbyists to undermine the formal Fisheries processes and recommendations, engaging the Minister and advisors on a range of issues, including inappropriate operational issues. This practice has undermined the integrity of, and confidence in, fisheries management and needs to be rectified.

Recommendation 2.4: That consultation with the commercial fishing sector takes place through the following structured consultation pathways:

- **The Ministerial Fisheries Advisory Council on major strategy and policy issues (such as resource sharing, co-management, cost recovery and Harvest Strategy development for individual fisheries), Management Plans for individual fisheries, and any other matter referred to the Council for advice by the Minister.**
- **The Executive Director, Fisheries on major operational issues (such as gear changes, licensing changes, spatial closures and management plan development) via tasked working groups set up in consultation with the peak industry body and other stakeholder organisations, and for the setting of total catch or effort levels in individual fisheries via the TAC Committee.**

- **The peak industry body for the development of wider industry policy positions on issues such as cost recovery and other fisheries issues involving other non-fisheries Government agencies, for regional approaches to the resolution of localised issues, and as a first-stop calling centre for individual commercial fisher's issues.**
- **The Seafood Industry Council on broader marketing issues**

TOR 3 - Review of Legislation

Finding: While the Act is a comprehensive aquatic resource management tool box, it requires amendment in a number of key sections to ensure that the Government can achieve its statutory obligations. In particular it is necessary to make a number of changes to give effect to the recommendations made throughout this Review. In particular, while many of the recommendations of the Palmer and Institute of Criminology reports have been implemented, there remain some key actions and associated legislative amendments to be made, including the development and introduction of a demerit/penalty point scheme.

Recommendation 3.1: Review and amend (as necessary) the *Fisheries Management Act 1994* and associated regulations to give effect to the recommendations made in this Review.

Recommendation 3.2: That a demerit point scheme be introduced to deter recidivist offenders and provide greater consistency in the application of penalties for illegal fishing.

TOR 4: Resource sharing

Finding: It is necessary to balance the access to fisheries resources in NSW across a range of often countervailing uses. These include areas required for conservation, access for the recreational, commercial and Aboriginal fishing sectors and the needs and expectations of the non-fishing public that supplies of local seafood are available. The NSW commercial fishing sector has lost considerable access to fisheries resources through past decisions, which were made without an overarching resource sharing policy and process in place.

Recommendation 4.1: That the Minister develops and implements a Policy statement on resource sharing through the Ministerial Fisheries Advisory Council, which acknowledges the aspirations of the different fishing sectors, sets out preconditions for consideration of resource sharing proposals, guiding principles and a proper process for decision-making in relation to such proposals.

TOR 5 - Co-management

Finding: Most of the necessary pre-conditions for the development of delegated decisions under co-management arrangements in fisheries between the Department and the commercial industry do not exist in NSW, other than in one or two fisheries. This review seeks to restructure both internal and external relationships within and between the Department and industry to improve trust, transparency and relationships. When this has been achieved, and the economic circumstances of the fisheries have improved, co-management options are likely to become available in the future.

Recommendation 5.1: That the current state of working relationships between industry and the Department, together with the present failure of most consultative bodies across industry preclude the development of formal co-management arrangements at this time.

TOR 6 – Structural Adjustment Programme

Finding: Fishing businesses, which were originally introduced as a means of controlling effort upon the introduction of restricted fisheries and to prevent (and later control) licence splitting, have had value as an effort management tool in the past. However, when shares are established as the major tradable property right, as envisaged under share management, and appropriate catch and effort limits have been set, FBs will cease to have a role as a management tool.

Recommendation 6.1: Fishing businesses should cease to have a role as a management tool to limit access once linkages (to catch, effort or a limited number of endorsements) are in place.

Finding: In most NSW fisheries (excluding, in particular, Abalone and Lobster), shares are now a weak property right and management control. Due to an excess of these shares being issued, there is little or no scarcity, and therefore market, for most shares. In some fisheries, access is simply limited by having historical rights or a minimum number of shares, while in others there is limited or no ability for operators to 'trade up' to make their operations more viable. This has essentially prevented autonomous structural adjustment.

Recommendation 6.2: That shares in each fishery be linked directly to resource access in the form of catch or fishing effort to achieve the biological and economic objectives of the Act.

Finding: Minimum shareholdings, as proposed in the original share management proposal are a useful, if somewhat blunt, tool to limit effort (maximum number or operators) in a fishery. They have been used effectively to initiate restructure the Ocean Trawl (OT) and Ocean Trap and Line (OTL) fisheries, although there has been some criticism from industry concerning the need to invest as progressive minima have been introduced. Minimum shareholdings also reduce compliance and administrative costs as there are fewer fishers to service. Once shares become more effective as a management tool, the need for minimum share holdings as a primary effort control will reduce, but they should not be removed.

Recommendation 6.3: That minimum shareholdings be applied to each fishery as: (i) a means of linking the number of endorsements in a fishery to total effort as a proxy for catch as part of an agreed restructuring plan, and/or (ii) as a means of reducing management costs.

Finding: Past allocation of commercial fishing licences and the current complex and inefficient management framework of FBs, share classes and poorly defined access rights has resulted in considerable latent effort and the failure of shares to reach their intended value as the 'currency' of each share management fishery. It has also restricted the ways in which access rights can be used to manage sustainability, which has created an inefficient and costly range of measures based on complex input and other controls. Without radical restructure and reform, the economic crisis facing industry will continue and, indeed, worsen. Overfishing will also continue to be difficult to avoid and control effectively. Implementation of this far-reaching, complex and comprehensive reform will need to be funded adequately. Some allowance for flexibility in the application of funding for each stage of the structural adjustment process will be necessary.

In most fisheries, a relatively small proportion of active fishers (businesses) take the majority of catch and the remaining businesses holding shares have either nil or very low catches. Consequently there is a need to ensure that active fishers, and particularly those who have taken the majority of the catch in recent years, are not unduly disadvantaged when shares are directly linked to catch or effort. This will require the judicious use of the available structural adjustment funding to undertake a targeted programme of exit grants to provide an incentive to encourage those holding inactive shares to sell them, and to assist active fishers with small numbers of shares to reach minimum viable shareholdings.

Recommendation 6.4: To encourage share trading and consolidation, implement a targeted exit grant process for fishing businesses, with eligibility determined via a tender process. The amount to be offered for individual fishing businesses should not be capped, and exit grant payments made once the shares on the fishing business have been transferred.

Recommendation 6.5: That structural adjustment should be implemented as a complete package through a three-year staged process, assisted by Government and industry funding. The package should establish an autonomously adjusting system which will increase management efficacy and the value of, and trade in, shares. The suggested levels of funding for each element of the structural adjustment process are:

1.	**Exit grant**	**$15.5 million max (at least one phase)**
2.	**Southern fish trawl/OCS**	**$ 0.5 million (max)**
3.	**Implementation costs**	**$ 1.2 million (preferably funded separately, but otherwise from within the $16 million structural adjustment programme budget)**

Finding: The way in which industry is provided with information, funding and decisions on the restructuring process will be critical to its ability to adapt and for trading of shares to occur. There is also a need for the Minister to set 'pegs in the ground', at the appropriate times through legislation. This will provide some level of certainty concerning future direction and send the appropriate signals to industry to inform decisions about exiting or remaining and investing in the fishery.

Recommendation 6.6: That the Minister makes two key decisions and announcements, one at the start of the structural adjustment process and a second, around 18 months later:

A first Key Decision and announcement, subsequently 'backed up' with legislative amendments, to:

- **i) link shares with access (catch quota, effort quota or no. of endorsements) at the end of the structural adjustment period (end 2014);**
- **ii) apply a moderate 'base payment' charge on shareholdings in each share class from July 2012;**
- **iii) set total catch and effort levels (within around 18 months), in consultation with industry, to commence at the end of the structural adjustment period;**
- **iv) undertake a process of exit grant payments (at least one round);**
- **v) implement a process for consultation with industry at the share class level to determine the form of linkage;**
- **vi) remove the limit on the number of fishing businesses as each share class becomes linked;**
- **vii) identify unnecessary input controls and regulations that could be removed.**

A second Key Decision and announcement to be made about 18 months after the initial decision to:

- **i) Approve the final form of share linkage (effort or catch) for each share class**
- **ii) Approve the determination of total catch, total effort or the number of standardised endorsements.**