

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

Draft IAP Report for Consultation – 30th April 2018

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

Report prepared by the Independent Allocation Panel

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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 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 within a stakeholder group.

Following consideration of an Independent Review report in 2012 the NSW Government established the Commercial Fisheries Reform Program including a *structural adjustment component* to:

- link shares in each fishery to either recorded landings or fishing effort to meet the original intention of share management when the *Fisheries Management Act 1994* first commenced;
- provide a way for some fishers to exit the industry and others to help set up their businesses for the future through the application of a \$16 million structural adjustment package; and
- remove unnecessary fishing controls which have hindered fishing efficiency³.

A conclusion reached by the Government established Structural Adjustment Review Committee (SARC) was that the acceptance by the Government of the 2012 Independent Review findings sent a clear signal to industry that, as intended in the original introduction of share fisheries, shares would be the primary mechanism for determining access.

However the SARC determined that application of a share linkage allocation based only on existing access shares held (i.e. equal allocation across shares) would create a significant distortion (i.e. the disparity between shares held and existing fishing activity levels) for a range of species taken by some NSW fishing endorsements. The SARC was of the view that this distortion would place an unacceptable and unintended substantial financial burden on a relatively small number of fishing businesses in fisheries where this small number of fishing businesses accounted for a high proportion of the total recorded landings from the fishery.

The SARC concluded that this distortion would require specific consideration by an Independent Allocation Panel (IAP) with terms of reference seeking the IAP provide advice

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 Extracted from the Minister for Primary Industries media release announcing the reform program on 14 November 2012.

to the Minister for Primary Industries on the basis for allocation of 'quota shares' for specific species across the following NSW fisheries:

- *Ocean Trawl – Inshore & Offshore Prawn Fishery and Northern Trawl Fishery;*
- *Estuary General – Hand Gathering Fishery;*
- *Ocean Haul – Purse Seine Fishery;*
- *Ocean Trap & Line – Line East Fishery; and*
- *Ocean Trawl – Southern Fish Trawl Fishery.*

The IAP was established by the NSW Government in October 2017 under a series of Terms of Reference (ToR) for each fishery set out above. The respective ToR were approved by the Minister following a consultation process with industry stakeholders.

The ToR for the *Ocean Trawl - Southern Fish Trawl Fishery* sets out the species for which advice on allocation of new quota shares 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 Fishery*, the IAP has accepted that the 'restrictive 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 at key port locations in NSW and teleconference from mid February 2018 to mid March 2018. Written submissions were encouraged and received.

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

The Draft IAP Report has been circulated to all eligible endorsement holders in the *Ocean Trawl - Southern Fish Trawl Fishery* and other interested stakeholders.

The IAP is now seeking 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 will submit a Final Report to the Minister for Primary Industries by end June 2018.

How to Make a Submission on the Draft Report of the Independent Allocation Panel for the *Ocean Trawl - Southern Fish Trawl Fishery*

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 are sought by the close of business 21st May 2018.

2. IAP Summary of Recommendations (Full details in section 11)

2.1 Allocating Species Across Fisheries

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

Where quota catch shares are issued for a particular species in more than one fishery (e.g. flathead, whiting and ocean perch species, and silver trevally) the IAP recommends that the initial number of quota shares allocated for each species in each fishery is proportional to the recorded landings of that species for each fishery over the agreed criteria period.

The IAP recommends the criteria period be the sum of recorded landings over the period 2009/10 to 2016/17 (inclusive).

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

The IAP recommends that the allocation of quota shares for each species in the ToR for the Ocean Trawl – Southern Fish Trawl Fishery be calculated based on 20% on holding a current restrictive 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).

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 Share – 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 – Fisheries (DPI Fisheries).

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)

4. Introduction

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

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.

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 - this remains largely a biological/ecological fisheries management issue. Allocation means working out what individual proportion of total annual catch allowed for the fishery (kilograms or tonnes) or proportion of the total effort allowed in the fishery (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 organizations with relevant knowledge and experience.

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

The IAP consultation has taken place primarily through individual meetings with eligible endorsement holders (i.e. registered fishing business owners), receipt of written submissions and an industry review of the Draft IAP Report with the opportunity to comment through a written submission process. The IAP will then review and consider response to the Draft IAP Report and finalise their report to the Minister for Primary Industries.

This Draft 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 shares to the eligible endorsement holders in the *Ocean Trawl - Southern Fish Trawl Fishery*.

5. Summary of History of Share Management in NSW

Initially, fishing access in NSW fisheries was '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 1991 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.

New fisheries management legislation and regulations were introduced in NSW in 1995 and were developed on the principles of 'share management' that set out as follows:

- fishers would have strong fishing rights and would be compensated 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. Young (1995) described the initial reasons and intent of the introduction of the system. The system was designed to give fishers security within the context of an adaptive resource management system designed to ensure that fishery use is sustainable and consistent with social objectives as they change through time. It was designed to replace the annual renewal of a licence, which provided no real tangible property right and could, in theory at least, not be renewed. The system was designed to enshrine rights (within sustainability bounds) to harvest specific amounts of fish or to use certain classes of boats and gear issued in proportion to the number of shares held in each fishery (fishery being flexibly defined by region and habitat, with or without further specification by gear-type, species group or single species).

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. The remaining fisheries agreed to be progressed to share management through a multi-stage process. The intent of the NSW Government using a multi-stage process was to implement meaningful restructuring rules at a later stage once the challenge of defining the number of participants in each sub-fishery was finalised and frameworks to support a sustainable and economically viable industry were assessed and developed.

The first stage of that process was the introduction of a restricted fishery management framework across 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 Fishery* access endorsement.

A person was eligible for a *Ocean Trawl - Southern Fish Trawl Fishery* endorsement if they owned a 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 (Part 9 Division 187).

With an *Ocean Trawl - Southern Fish Trawl Fishery* endorsement authorising 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 about 2000 the NSW Government amended legislation to provide for Category 2 share management fisheries resulting in a stronger fishing right but still only providing an access endorsement capable of cancellation without compensation. This did not include the *Ocean Trawl – Southern Fish Trawl Fishery*.

Between 2004 and 2007 Government moved five fisheries to Category 1⁶ share management status. This did not include the *Ocean Trawl – Southern Fish Trawl Fishery*. The *Ocean Trawl – Southern Fish Trawl Fishery* has remained a restricted entry fishery under regulation⁷. No access shares have been issued within this fishery.

In practice the *Ocean Trawl – Southern Fish Trawl 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. Endorsements are tradable.

A report on the need for structural adjustment in the NSW commercial fisheries (Stevens, 2007) suggested that given share management had now been implemented in all of the nominated NSW fisheries, there was now a mechanism in place to readily facilitate structural adjustment over time. The report recommended a limit be set for each fishing and sub-fishery (i.e. a Total Allowable Catch or Total Allowable Effort) and allocated to shareholders in direct proportion to their access shares held. The report identified that the existence of significant shareholdings held by latent fishing businesses may mean that linking shares to the total allowable catch and/or effort would result in a degree of distortion and initial disruption to active fishers. (Note from IAP: It was not clear if this included the *Ocean Trawl – Southern Fish Trawl Fishery* as this was not a share managed fishery but the IAP is of the

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

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

view that any SFT endorsements held by latent businesses may mean a similar distortion and initial disruption to active fishers could apply).

In July 2009⁸ the NSW Government announced the *Pymont Pact* – an agreement by Government and industry on the elements of a ‘reform program’ proposed for future management of commercial fishing in NSW. This included a range of tools to facilitate restructuring such as changes to minimum shareholdings and use of exit grants. The Government documents advising of the agreement emphasised that the ‘reform program’ would consider how existing shares could be used to create a system where the more shares held would give more access to the resource thus giving effect to the original intent of the share management system.

In June 2010⁹ further NSW Government documentation advised of the imminent commencement of an exit grant program to assist those wanting to leave their fishery, while providing opportunity for those wishing to stay to increase their shareholdings. Industry was advised that to improve industry viability, the linking of shares to a level of resource access was seen as an important way forward and that in particular, this approach should provide a real benefit to business owners who accumulate more shares.

In September 2011 the NSW Government announced the establishment of the Independent Review of NSW Commercial Fisheries Policy, Management and Administration (2012)¹⁰ that was completed in May 2012 after a significant industry consultation process.

In 2012 in response¹¹ to the report from the Independent Review of NSW Commercial Fisheries Policy, Management and Administration (2012), the Government announced the establishment of a *Commercial Fisheries Reform Program*. The Government’s response included support for the Review recommendation that shares in each fishery be linked directly to resource access in the form of a quantity of catch, a quantity of fishing effort or limiting the number of access endorsements¹² to achieve the biological and economic objectives of the Act.

In May 2013 an amount of \$16m¹³ was announced to assist with structural change and ‘*instill meaning and value in commercial fishing shares, by linking them to resource access*’.

As part of the reform program the Government established a Structural Adjustment Review Committee (SARC) in early 2013. The SARC was charged with the responsibility to create a stronger link between shares and resource access to instill greater value and security in the tradeable rights (access shares) that was expected to assist to reduce latent fishing pressure and increase the long term viability and operational flexibility for industry. In September 2015, the SARC¹⁴ recommended share linkages across 24 separate share class groups

⁸ The Pymont Pact to promote strong future for commercial fishers, DPI, 6th July 2009 (OUT 09/4754)

⁹ Future Directions for the Commercial Fishing Industry, DPI, 18th June 2009 (OUT10/8958)

¹⁰ Independent Review of Commercial Fisheries Policy, Management and Administration (2012)

¹¹ Government Response to the Recommendations of the Independent Review of Commercial Fisheries Policy, Management and Administration (2012)

¹² Response to Recommendation 6.1, (p8), Government Response to the Recommendations of the Independent Review of Commercial Fisheries Policy, Management and Administration (2012)

¹³ NSW Commercial Fishing Statement of Intent, Minister for Primary Industries, 31st May 2013

¹⁴ Final Share Linkage Recommendations, NSW Structural Adjustment Review Committee, Ian Cartwright, Sevaly Sen and Mary Lack (30 September 2015)

(encompassing 103 share classes) using existing access share allocations wherever possible.

In April 2014 a DPI consultation paper¹⁵ set out that catch quota should be pursued as the preferred option for linking shares to resource access but, if this is not feasible, shares should be linked to fishing effort in the form of transferable time/gear based quota (effort quota).

The DPI paper outlined that a number of share linkage options included in the respective fisheries options papers involved creating a new class of share to:

- implement a catch quota for a species that is one of many species taken by a particular share class and where the current allocated access shares bear no direct relationship to the catch of that species; and
- implement a catch or effort quota for a species taken across multiple share classes and where the full transferability of rights between participants in those sectors is desired.

The DPI paper advised there were a number of specific options identified for allocating shares in new share classes, including using current access share held, 'swapping' current access shares and using shareholders recent participation (recorded landings).

Use of recorded landings¹⁶ as a criteria was proposed to be limited to those sectors demonstrating 'extreme disparity' between shareholdings and some shareholders recorded landings especially where shareholdings were initially issued on a flat basis and/or (as in the majority of such cases) where there is no direct link between the access shares issued and species concerned. The DPI paper recognised that access shares already issued are a legal right that cannot be simply extinguished, whether or not they have been actively used to fish and as such all existing access shares do have some value that must be taken into account in any reforms of the current share managed fisheries structure.

The Government announced the *NSW Commercial Fisheries Business Adjustment Program* on 31st May 2016. The \$16m provided by the Government was to support 'exit grant' funding to help share the cost between those buyers and sellers trading access shares on the market.

In their final report¹⁷ the SARC reached the conclusion that, for several species in some share classes, the reform program and exit grant would be unable to deal with the level of distortion in those share classes. The SARC concluded that an 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 fisheries. This included certain species in the *Ocean Trawl – Southern Fish Trawl Fishery*.

¹⁵ Public Consultation Paper: General information relating to the reform program and reform options for NSW commercial fisheries, DPI, April 2014

¹⁶ Public Consultation Paper: General information relating to the reform program and reform options for NSW commercial fisheries, DPI, April 2014 (p17)

¹⁷ Final Share Linkage Recommendations, NSW Structural Adjustment Review Committee, Ian Cartwright, Sevaly Sen and Mary Lack (30 September 2015)

Given the likely complexity and cost of the new share allocation processes, the SARC recommended that new share classes should only be considered under certain criteria. Such criteria included:

- a small number of shareholdings in the existing share class account for the bulk of the catch potentially placing an unacceptable and unintended financial burden on these fishing businesses which would be required to purchase a large amount of shares to continue their fishing operation having significant impacts on their economic viability;
- no other suitable linkage options and associated measures are available or feasible for the existing share class (e.g. staged implementation or delaying the commencement of the ITCAL) to minimise the financial burden on those operators;
- the benefits of moving to a new share class clearly outweigh the costs; and
- the proposed new share class must have the strongest form of share linkage feasible (i.e. a catch quota or if that is not feasible, a very tight effort quota).

Even taking into account the potential for the exit grant to mitigate those impacts, the implementation of significantly stronger share linkages in some share classes would, in the SARC's view, have resulted in an unacceptably high financial impact on active operators.

The SARC recommended that the Government establish an independent allocation panel (IAP). 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. (IAP Note: See Guiding Principle 1).

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

Terms of Reference (ToR) for the *Ocean Trawl – Southern Fish Trawl Fishery* IAP can be found at Appendix 3

The *Ocean Trawl - Southern Fish Trawl 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 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. The IAP was made aware of a public consultation paper '*Transitioning the NSW Southern Fish Trawl Restricted Fishery to Commonwealth Management*'¹⁸ outlining this process.

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 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

¹⁸ Public Consultation Paper - Transitioning the NSW Southern Fish Trawl Restricted Fishery to Commonwealth management (NSW DPI, March 2018)

- 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 requires 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 Fishery

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

An *Ocean Trawl - Southern Fish Trawl 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.

A weight trip limit applies to flathead and a minimum size limit applies to silver trevally. Some operators have fishing rights to access this fishery as well operating in Commonwealth waters. Vessels must unload from a fishing trip in NSW waters before operating their vessel in Commonwealth waters.

The DPI Fisheries provided the IAP with data for the *Ocean Trawl - Southern fish Trawl Fishery* in January 2018. Based on this data, 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 Fishery* and to provide advice to the Minister for Primary Industries on the basis for the allocation of nominated species quota shares to the holders of *Ocean Trawl - Southern Fish Trawl Fishery* endorsements.

Full details of the IAP Terms of Reference for the *Ocean Trawl - Southern Fish Trawl Fishery* can be found at Appendix 3

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 on 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 2.

Grant Thornton Australia Ltd was been appointed by the DPI Fisheries 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 *Ocean Trawl - Southern Fish Trawl 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) holders;
- stakeholders' views via face-to-face meetings with fishing business 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:

- 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 Draft 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 Draft 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.

- 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 Terms of Reference (see Appendix 3), 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.

Any allocation process raises an expectation that shares will be specified in future management arrangements for all classes of licensees. 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 holder. 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 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 share allocations.

9. Independent Allocation Panel Process

The IAP process was as follows:

1. The DPI Fisheries 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 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 stage, are listed at Appendix 4.
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. This Draft IAP Report, including recommendations, has been circulated to eligible endorsement holders and other stakeholders for comment by 21st May 2018. Other submissions received in relation to generic issues for quota share allocation have also been considered for this Draft IAP Report.
7. Eligible endorsement holder and other stakeholder feedback on the Draft IAP Report will be considered by the IAP together with any other information deemed appropriate.
8. A Final Report from the IAP will be presented to the Minister by the closing deadline of 1st 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 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 fishing business 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 Fishery* was provided through a wide range of sources including SMS, email, general postal mail and links to the DPI Fisheries 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 Fishery* registered with the DPI Fisheries 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 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 1.

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

Eligible endorsement holders are encouraged to provide written submissions in response to this Draft IAP Report by 28th May 2018.

9.3 Final IAP Report

The IAP will consider the Round 2 written submissions received following circulation of the Draft IAP Report and submit their Final IAP Report to the Minister for Primary Industries by end of June 2018.

10. IAP Considerations of key issues raised through consultation process

This section outlines the key issues identified by the IAP from the myriad issues raised during the face-to-face consultation meetings or contained within the Round 1 written submissions received in relation to the *Ocean Trawl - Southern Fish Trawl Fishery*.

Given that there are no access shares issued in the *Ocean Trawl - Southern Fish Trawl Fishery* the IAP has accepted that the restrictive fishery endorsement was the current legislative access right.

The IAP considered this access right to the *Ocean Trawl - Southern Fish Trawl 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*'.

In the case of the *Ocean Trawl - Southern Fish Trawl Fishery* the IAP has substituted 'existing access shares' with the 'restrictive fishery endorsement' when considering developing our advice on a basis for allocation of a new quota share class.

10.1 Use of Restrictive Fishery Endorsement as Allocation Criteria.

The management regime currently applied limits the number of endorsements that can access the *Ocean Trawl - Southern Fish Trawl Fishery* and allowed endorsed fishers to continue to take all catch while operating within the formal input 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 Fishery* to be allocated an endorsement one had to own a 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 (Part 9 Division 187).

If you were not fully active in the fishery you still could receive an endorsement. Many endorsements were given to people who did not have a consistent or significant, demonstrated interest in fishery. This has resulted in a lot of endorsements and not a lot of 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 you choose 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 was raised by some that there will be a substantial redistribution of wealth if recorded landings were now a substantive part of the allocation criteria as restrictive 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 verified catch history was abandoned in February 2007.

However, the Government's intent within the fishing industry reform package was to ensure

as far as practicable that fishing businesses are able to keep fishing at current levels.

Active fishermen argued they had made large investments in this fishery, in the form of the 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. Their view was that if the existing active fishers do not get their current share of the catch in the 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.

In their final report in 2015¹⁹ the SARC reached the conclusion that for several species in some fisheries (including the *Ocean Trawl – Southern Fish Trawl Fishery*) the 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’*. If one applies this approach to the endorsements in the *Ocean Trawl – Southern Fish Trawl Fishery* the same distortion can apply.

The SARC recommended that new share classes be established in these particular fisheries to deal with the identified distortion that would be created by equal allocation. The SARC recommended that in developing the terms of reference for the IAP, the mitigation of impacts on active operators be clearly articulated as a key objective of the allocation process.

The ToR for *Ocean Trawl – Southern Fish Trawl Fishery* outlined in Guiding Principle 5 that the IAP 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 shares to eligible endorsement holders in the *Ocean Trawl – Southern Fish Trawl Fishery*. Where quota catch shares are to be issued for a particular species in more than one fishery (i.e. flathead, whiting, ocean perch, silver trevally and gemfish) the IAP recommends that the initial number of quota shares allocated for each species in each fishery is proportional to the recorded landings of that species for each fishery over the agreed criteria period.

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

The IAP does not support that the new quota share allocation be based solely on equal allocation across existing restrictive fishery endorsements held based on:

- the Government and industry stated focus of the reform package to ensure the ongoing economic viability of those choosing to remain in the industry; and

¹⁹ Final Share Linkage Recommendations, NSW Structural Adjustment Review Committee, Ian Cartwright, Sevaly Sen and Mary Lack (30 September 2015), p2.

- the SARC and the IAP assessment that an equal allocation based on existing access rights 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 fishing business purchases the fishing entitlement from another fishing business it also purchases the fishing recorded landings. The fishing recorded landings have a value in the market and that value is not extinguished through trading.

The IAP has been advised by DPI that, in line with share managed fisheries, since 2007 recorded landings have not transferred with an *Ocean Trawl – Southern Fish Trawl 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 they may now be at a disadvantage if recorded landings is applied as the sole criteria in a species. These fishing businesses also argue 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 argue 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.

The Government made the decision to assess how to allocate new quota shares (by establishing the IAP) to address the distortion that would take place among *Ocean Trawl – Southern Fish Trawl Fishery* endorsement holders if an equal allocation based on existing access endorsements was applied. The identified distortion was that equal allocation 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.

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 restrictive fishery endorsement allocation. In response to this the IAP considered the following. First, and as described previously, the initial issue of restrictive 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 restrictive 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.

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 whiting quota should he require.

The ToR for *Ocean Trawl – Southern Fish Trawl 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).

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 is reflected in recorded landings for endorsement holders made available by the Department to the IAP.

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 restrictive fishery endorsement and recorded landings.

10.3 Recorded Landings Qualifying Period

The Department provided to the IAP recorded landings and effort data for the period 1997/98 to 2017/18. 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 Fishery*.

It is noted that due to changes in the format of the data compiled between 1997/98 and 2017/18, data was provided for two distinct time periods, being 1997/98 to 2008/09 and 2009/10 to 2017/18. The IAP was advised that changes in the data structure used by NSW DPI Fisheries 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 Fisheries 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 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.

The IAP recognises that independent of its 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. However, when the Department does implement an allocation of quota in this fishery, it will presumably be on the relevant validated data.

In September 2015 the SARC recommended that the Government announce the latest date that should be used as a qualifying period by the IAP when determining eligible catch or effort history. The SARC recommended the date should precede the initiation of the SARC Working Groups in 2013/14 when Government proposed that future share linkages would come into effect. Any recorded landings after this period could only be considered as speculative.

The IAP considers that the time difference between the SARC 2015 report and the establishment of the IAP warrants the inclusion of recorded landings ending in 2016/17. Further, the IAP's assessment of the data did not reveal substantial increases in annual recorded landings in the later part of the time series.

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 Fishery* was not acceptable due to the past restrictions on minimum sizes for some species, for other species applying trip weight limits and also failure to incorporate discard rates. Fishers referred to the current consultation paper²⁰ that indicates that if the *Ocean Trawl – Southern Fish Trawl*

²⁰ Public Consultation Paper - Transitioning the NSW Southern Fish Trawl Restricted Fishery to Commonwealth management (NSW DPI, March 2018)

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 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 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. 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 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 NZ did with their scampi fishery.

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 Fishery*.

The TOR for the *Ocean Trawl – Southern Fish Trawl 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 aim to reduce wastage through discards taking into consideration other relevant matters.

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 Fisheries 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. 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 however 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 a specific allocation criteria based on investment.

10.5 Management Issues for DPI Fisheries Consideration

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

The IAP has listed these issues here for the information of DPI Fisheries.

- Due to the minimal amount of operators in the fish trawl, to be able to remain viable there should only be an increase in minimum shares and not the introduction of quota.
- The majority of fishers were of the view it was a good idea to change management to the Commonwealth so that they can work in both State and Commonwealth waters within the same day. That will free them up and allows them to utilise their quota for State and Commonwealth. They are limited currently - either have to work out in one or the other and then come back to shore to drop the catch before going and fishing in the other jurisdiction.
- There should only be one lot of quota allocated between Commonwealth and State as the Commonwealth give the quota to the State now anyway.
- When the fishery opens up and comes under one banner, you have to have a Commonwealth and a State license to fish in both areas. This needs to be in place as they deserve the right to fish in both areas as they 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.
- There is a need to have one set of rules for Commonwealth and State fishery management (i.e. size limits, trip limits).
- There are people who have had State licenses but sold them to 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 (and having cashed in on their initial investment) – if this is allowed they will have received the golden handshake from government and now be able to fish in both areas again.
- 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 paper²¹ on transitioning the fishery to Commonwealth management 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 industry advised that the numbers for the TAC that AFMA/DPI Fisheries are putting in the paper would not provide a sustainable living for anyone in the fishery. It is based on recorded landings that have been artificially restricted through trip weight limits and size limits and does not take into account discard rates. They argue that the future TAC setting practice needs to be based on proper scientific measures based on uninhibited commercial fishing results. The industry proposed allowing people fish for a period of time (2 years was mentioned several times) with no restrictions and use those recorded landings as the base the TAC. They believed this would more responsibly prove up the fishery and referred to a similar approach being applied in NZ with their scampi fishery.

- Running the fishery as one jurisdiction (removing the State line) would be more efficient, allowing for one stock assessment and requiring less regulation.
- If the IAP related fisheries goes to quota, there was a promise of government assistance – will there be assistance from the Government to help buy quota?

11. Independent Allocation Panel Findings and Recommendations

11.1 Allocating Species Across Fisheries

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

Where quota catch shares are issued for a particular species in more than one fishery (e.g. flathead, whiting and ocean perch species, and silver trevally) the IAP recommends that the initial number of quota shares allocated for each species in each fishery is proportional to the recorded landings of that species for each fishery over the agreed criteria period.

The IAP recommends the criteria period be the sum of recorded landings over the period 2009/10 to 2016/17 (inclusive).

11.2 Allocating Species Quota in the Ocean Trawl – Southern Fish Trawl Fishery

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

There are twenty-three (23) fishing businesses with an endorsement in the *Ocean Trawl – Southern Fish Trawl 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 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

²¹ Public Consultation Paper - Transitioning the NSW Southern Fish Trawl Restricted Fishery to Commonwealth management (NSW DPI, March 2018)

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 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 restrictive fishery endorsement for *Ocean Trawl – Southern Fish Trawl 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 (2009/2010 to 2016/2017) 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 Fishery* be calculated based on 20% on holding a current restrictive 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).

12. 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.

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.

Appendix 1 - Summary of Issues raised in Consultation Meetings and Round 1 Submissions – Ocean Trawl – Southern Fish Trawl 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 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 paper²² 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.

²² 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’²³ 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.

²³ Public Consultation Paper - Transitioning the NSW Southern Fish Trawl Restricted Fishery to Commonwealth management (NSW DPI, March 2018)

Appendix 2 – 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 3 - Terms of Reference for Independent Allocation Panel for Ocean Trawl - Southern Fish Trawl Fishery



Department of Primary Industries

OUT18/672

TERMS OF REFERENCE

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 lalandi</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 4 - Correspondence and Advice to Eligible Ocean Trawl - Southern Fish Trawl Fishery Endorsement Holders

Appendix 4.1 - First Letter from IAP to eligible Ocean Trawl - Southern Fish Trawl 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 4.2 - Second Letter from IAP to eligible Ocean Trawl - Southern Fish Trawl 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 4.3 - Third Letter from IAP to eligible Ocean Trawl - Southern Fish Trawl 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 4.4 - Fourth Letter from IAP to eligible Ocean Trawl - Southern Fish Trawl 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 4.5 - Fifth Letter from IAP to eligible Ocean Trawl - Southern Fish Trawl 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 4.6 - Sixth Letter from IAP to eligible Ocean Trawl - Southern Fish Trawl 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 4.7 - Seventh Letter from IAP to eligible Ocean Trawl - Southern Fish Trawl 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

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>.

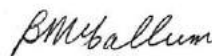
Yours sincerely,



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 5 – 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.