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Fisheries Adjustment Assistance Package

Transitional Business Assistance Guidelines – Draft for Consultation, June 2013

NSIA Submission

1 July 2013

MEMBERS OF NATIONAL SEAFOOD INDUSTRY ALLIANCE



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1. Executive summary

The National Seafood Industry Alliance Incorporated (NSIA) has been an active participant in all aspects of the Commonwealth Marine Bioregional Planning (MBP). NSIA welcomes the commitment of Government to deliver a Fisheries Adjustment Assistance Package (FAAP), which will begin to flow before the marine reserves are activated¹.

NSIA has previously and continues to seek the following assurances from Government:

- a. To improve consultation and engagement, including clarifying timeframes and processes, for development of a FAAP, with involvement of the fishing industry and other experts;
- b. to ensure the FAAP includes elements as announced in the joint media release issued by the (then) Ministers, the Hon. Tony Burke and the Hon. Joe Ludwig, dated 14 June 2012;
- c. to ensure the FAAP incorporates the full requirements of the 2011 *Fisheries Adjustment Policy* document, including assessment of impacts and adjustment assistance delivered on a case by case basis;
- d. to ensure the marine reserves networks do not come into effect before the FAAP is finalised and funds are available to assist those impacted; and
- e. to respond to concerns raised over deficiencies in the draft Regulatory Impact Statement (RIS), and the lack of effective socio-economic assessment in assessing the impacts of the final proposed networks of marine reserves. Industry has been repeatedly assured that the ABARES work was not to be considered a comprehensive socio-economic assessment for development of the adjustment assistance package.

In responding directly to the “Transitional Business Assistance Guidelines – Draft for Consultation, June 2013” (the Draft Guidelines) and related “Appendices” (Draft TBA Appendices), NSIA considers the development of, and currently proposed details of, the FAAP remain flawed due (and not limited to) to the following:

1. The currently proposed timing of the FAAP components (or “elements”), will result in gaps between impacts to fishing operators and fisheries management and delivery of potential assistance. NSIA believes the proposed order for delivery of the FAAP components will exacerbate negative impacts on the fishing industry, and potentially undermine sustainable fisheries management;
2. The lack of a complete FAAP with clear guidelines for each component - limited detail of how sectoral measures and entitlement buyouts will be handled (except as indicated they are likely to be competitive/tender based), means that fishers, trying to look at the TBA in isolation, have little understanding of or context for assessing the fairness and equity² of the TBA to deliver effective adjustment assistance;
3. The “generic” and apparent inflexible methods for calculating TBA mean that case by case³ impacts are not necessarily being taken into account and impacts are being “socialised” at the fishery level, rather than individual level, resulting in potential perverse outcomes,

¹ The Hon Tony Burke MP and Senator the Hon. Joe Ludwig. Joint Media Release, 14 June 2012.

² Fisheries Adjustment Policy – Supporting the Creation of Commonwealth Marine Reserves. Australian Government, 2011.

³ Fisheries Adjustment Policy – Supporting the Creation of Commonwealth Marine Reserves. Australian Government, 2011.

including under-assisting individuals, and contrary to the undertakings of the Ministers and FAP 2011;

4. The incomplete TBA application package – including guidelines and draft application form, noting that industry should have the opportunity to comment on the application form to understand expected requirements as well as inform appropriate changes for the final.
5. There has been minimal consultation with industry and other relevant experts. This involvement is essential to achieve best possible outcomes for Government, industry and the community.
6. Vertically integrated businesses are not clearly or adequately considered, despite a public commitment by two Ministers.
7. Decline in fishery asset values does not appear to have been considered.
8. Prospectivity is not considered.
9. Upstream and downstream impacts are not considered.
10. The proposed appeal mechanisms do not provide for a genuine merit based review.
11. The lack of a special circumstances category for businesses that can demonstrate a significant impact but fall outside the generic and strict guidelines.

To resolve these issues, NSIA recommends that:

- Government immediately commit to developing guidelines for the other elements of the FAAP with industry and other experts, with a view to having this largely completed before 1 July 2014, to increase transparency and certainty.
- Clearly defined objectives be set for the FAAP as a whole, and for the currently proposed TBA phase of the FAAP. This should be included in the guidelines.
- The FAAP explicitly address the need to take into account impacts on fishery asset values, either through a specific component to address this impact, or, less desirably, through direct acknowledgement that other components of the package will be comprehensive and adequate to ensure such impacts are addressed
- That vertically integrated business impact assistance guidelines be released and these impacts be clearly and adequately considered on a case by case basis, consistent with the public commitment by two Ministers
- On balance, and considering the wide range of issues, concerns and scenarios, that the TBA calculations and methodology be amended to err on the side of generosity and fairness, by:
 - Opportunity to provide comment on the whole TBA, including application form.
 - Extending the qualifying period out to 10 years.
 - Extending the qualifying period to December 2012.
 - Increasing the assumed profit value to 40%, especially necessary given that the preliminary advice from the tax office is that the payments will be deemed as taxable income.
 - Carrying out further work on definitions of “authorised to fish” – the current approach is not supported and tries to simplify a very complex issue. We note that intended recipients of assistance may not be eligible.

- Where individuals can demonstrate special circumstances, such as significant impacts, higher profits (through prices and/or catches) etc, there must be an opportunity to make that case.
 - Ensuring a minimum of 30 business days is made available as an appropriate timeframe to enable responses to the initial Ministerial decision.
- Any decision by the Department regarding eligibility must be included as a matter for review under a relevant section of the guidelines.
- An independent body be set up to administer the TBA element of the FAAP.
- A more transparent and fulsome review process be established, ensuring principles of natural justice are upheld.

This is required to account for the fact that TBA may be the only payment some individual operators receive, to help them adjust to the impacts of the Commonwealth marine reserves. Further, there is significant uncertainty about the other elements of the FAAP. Such changes recognise that as proposed, the sectoral measures, which have been announced to be competitive grant process, and entitlement buyout, to be tender or market based, will not necessarily address case by case impacts at the individual level.

This submission provides further detail and elaborates on these and other concerns and recommendations.

2. Background

This submission responds directly to the Draft TBA Guidelines, released on 6 June 2013 and due for comment by COB 1 July 2013.

Despite a number of positive outcomes, including clarification from Government that the FAAP phases are independent, NSIA remains very concerned about the FAAP development process so far, which has not adequately involved the fishing industry and other experts in working through each phase and developing a full package. Our concerns have been raised with the (then) Environment Minister the Hon. Tony Burke, SEWPAC, the Fisheries Minister Senator the Hon. Joe Ludwig, and others.

As such, given the truncated timelines, this submission does not represent or consolidate the views of the entire fishing industry. It is a response developed through NSIA and industry communication networks within the tight timeframes provided. Individual operators and businesses will also likely put in submissions.

An ongoing and consistently communicated concern of NSIA is that the final reserves and necessary adjustment assistance have been “informed by comprehensive analyses...of the direct and indirect impacts of the reserves networks on individual fisheries and regions”. The fishing industry, as stated in detail in previous NSIA submissions and associated independent reviews, does not accept this statement. Whilst the ABARES work may identify the “scale of impact” at the fisheries level, the use of GVP is inadequate to assess the direct and indirect impacts at the individual level, which is required to effectively apply the adjustment assistance on a “case by case” basis. Further, industry has specifically, throughout the entire process, advised that it’s involvement in the ABARES work and the data collected is no sound basis for developing a fair and comprehensive adjustment assistance package.

To get best value for money and to avoid perverse outcomes, MRAG found that assessments should be undertaken by competent professionals with the process and scope agreed through a process involving stakeholder participation. Assessments should be comprehensive, examining both direct and indirect impacts (e.g. level of fishing effort displaced; potential impacts on catching sector businesses remaining in fishery; impacts on fishery related businesses, crew, and affected communities). The outcomes of the assessment should inform the mix and magnitude of assistance measures required.⁴ We maintain that this simply hasn’t been undertaken, and that the simplification of complex issues, impacts and business structures, as presented in the Draft TBA Guidelines, may result in unforeseen, unfair and/or undesirable outcomes.

The fishing industry was previously advised in meetings with SEWPAC and the Minister that package components are likely to be decided by the end of 2012. This occurred. However, commitments were also made to ensure the fishing industry and relevant experts are involved in developing FAAP component details, including implementation guidelines, during January to June 2013. This has not occurred. The consequences of this are explained in this submission.

⁴ MRAG (2010). Adjustment Assistance for Public Good Marine Conservation: A review of past Australian practice and implications for future measures to offset impacts on the seafood industry.

In relation to the three substantial components of the FAAP, the implementation of these elements does not follow the logical structure suggested by MRAG⁵. Entitlement buyouts and sectoral measures would ideally be considered and resolved before business restructure assistance. The NSIA has recognised the government's desire to stick to a tight timetable and that accordingly, the Government has decided to provide transitional business assistance prior to resolution of effects on entitlements from reserves coming into effect. Given this order of the provision of assistance, it is difficult for businesses to assess in advance whether a combination of transitional business assistance, removal of effort and sectoral measures will in fact address the impacts of the Commonwealth marine reserves on their businesses. It is important that the government restate its commitments made in the fisheries policy paper and ministerial press releases on the scope and adequacy of adjustment arrangements. This will provide the necessary guidance for the further work that is required at both a policy and implementation level in developing up a suitable overall package.

Previous NSIA advice on Transitional business assistance

NSIA assumes that on the basis of the design principle cost effectiveness (relating to transaction costs), a broad basis of calculation has been adopted in the draft TBA Guidelines. Advice in meetings has already been provided by the fishing industry that the use of the term 'profit' is misleading in this context.

In addition, as advised above, it would be preferable if TBA was resolved after removal of effort was finalised. It is acknowledged that the timetable the government has adopted does not allow for that. In this context, it is fair that fishers receive transitional assistance prior to final resolution of programs for effort removal and sectoral measures.

The previous discussion paper posed specific questions relating to formula including eligibility periods and calculation periods. NSIA advice was that the diversity of fisheries involved means that any broad measure will inevitably be unfair and inequitable for some fisheries.

⁵ MRAG (2010). Adjustment Assistance for Public Good Marine Conservation: A review of past Australian practice and implications for future measures to offset impacts on the seafood industry.

3. Response to Draft TBA Guidelines and Appendices

Below, we systematically work through the “Transitional Business Assistance Guidelines - Draft for Consultation, June 2013” and related “Appendices” documents (collectively the “Draft TBA Guidelines”). In the same context that the Draft TBA Guidelines were released, all comments are provided on a no prejudice basis for further discussion and consideration with SEWPAC, the relevant Ministers and other relevant stakeholders, in finalising FAAP guidelines, component details and implementation arrangements.

The Draft TBA Guidelines have been considered in the context of FAP 2011, Minister Burke and Minister Ludwig’s FAAP statement of 14 June 2012, the 2012 Discussion paper⁶, and the Minister’s media release⁷ and FAAP Fact Sheet⁸ of 16 November 2012.

A key concern of NSIA is the lack of a complete FAAP with clear guidelines. Currently, only Draft TBA Guidelines have been developed and released, without the draft application form, which is referred to in the draft guidelines. Limited detail of how sectoral measures and entitlement buyouts would be handled (except an indication they are likely to be competitive/tender based), means that fishers, considering the TBA in isolation, have little understanding of or context for assessing the fairness and equity⁹ of the TBA to deliver effective adjustment assistance.

Recommendation 1: *That Government immediately commit to developing guidelines for the other elements of the FAAP with industry and other experts, with a view to having this completed before 1 July 2014, to increase transparency and certainty*

Commonwealth East Coast Tuna and Billfish (Coral Sea impacts) fisher:

ETBF’s best years are not covered by the history period. The ABARES figures do not account for the real values associated with the Coral Sea fishery catches that we can demonstrate undervalue it substantially. They do not account for the further value created onshore. Whilst this may get picked up in “Vertically integrated”, it also may not. How is the now to be smaller fishery addressed? How is increased effort on swordfish addressed? How is the increased AFMA costs addressed? There is no integrated package to address these matters which have been raised by us continually over 4 years of consultation.

⁶ The Fisheries Adjustment Assistance Package for new Commonwealth Marine Reserves - Discussion Paper. SEWPAC, September 2012.

⁷ Fisheries Adjustment Assistance Package to support the creation of marine reserves. Media release by the Hon Tony Burke MP, 16 November 2012.

⁸ Fisheries Adjustment Assistance Package – Fact Sheet. SEWPAC, November 2012.

⁹ Fisheries Adjustment Policy – Supporting the Creation of Commonwealth Marine Reserves. Australian Government, 2011.

3.1. Transitional Business Assistance Guidelines - Draft for Consultation, June 2013

3.1.1. Consultation (page 3)

As noted above in Section 2 “Background”, this NSIA submission is not fully comprehensive, due to the limited time provided to stakeholders to comment. During the industry consultations carried out during the period 6 June to 1 July 2013, a repeated message was that providing less than a month to comment on the TBA guidelines has made broad consultation and considered feedback difficult. That said, we welcome the opportunity to comment.

Regarding the statement “***Please be aware that the department may change the draft guidelines or not proceed with Transitional Business Assistance after the consultation period.***” This is concerning. NSIA does not support this position. It creates unnecessary uncertainty and is contrary to Government policy and commitments. NSIA believes that as the government made the commitment to deliver this component of the FAAP, the decision to change that position rests with the Government (eg Minister/s) and not the department.

Recommendation 2: *That the TBA Guidelines do not include reference to not proceeding with TBA*

3.1.2. FAAP Overview (pages 7-8)

An obvious and concerning omission from the current Draft TBA Guidelines are clearly defined objectives. These have not been settled or clearly specified for either the FAAP as a whole, or the TBA element. Both objectives and design principles were included in the earlier FAAP discussion paper, but are not included in the current draft. These need to be worked up with stakeholder and expert input, and should be drawn from the FAP 2011, the (then) Ministers’ media releases and the relevant sections of the Sept 2012 Discussion paper, as well as stakeholder feedback on the drafts proposed in.

Recommendation 3: *That clearly defined objectives be developed and included, with input from stakeholders and experts, for the FAAP as a whole, and for the currently proposed TBA element of the FAAP*

The fishing industry believes that one of the key factors has been overlooked. That is, “any structural adjustment scheme should be designed and implemented such as to avoid the distortion of the orderly operation of the market for fishing access entitlements” (FAP 2011). This is an important factor that must be recognised in any adjustment package. Such a consideration would be consistent with FAP 2011, which acknowledges government commitment to a system of secure and tradable fisheries access entitlements, to encourage capital investment, maximize value from and conserve fisheries resources, and maximise resource stewardship through improved tenure.

Recommendation 4: *Any adjustment package must explicitly address the need to take into account impacts on fishery asset values, either through a specific component to address this*

impact, or, less desirably, through direct acknowledgement that other components of the package will be comprehensive and adequate to ensure such impacts do not occur

WA West Coast Demersal Scalefish fishery:

Licences are already declining in value as a result of the MPA's. 12 months ago, units of entitlement were selling for \$330 per unit. Now units are not even able to sell, we have one fisherman wanting to sell and he can't even raise any expressions of interest because of the uncertainty facing the industry.

Paragraph three states that *"The Australian Government has developed..."* the FAAP. However, there is no FAAP. There is simply a Fact Sheet with limited detail. This sentence should read *"The Australian Government has announced that it will develop..."*

As stated above, the fact that there is no detailed package developed at this time is a major source of confusion, anxiety and concern amongst the seafood industry, and makes commenting on the Draft TBA Guidelines all the more difficult.

Section 1.2 "Elements of the Package" refers to objectives. As noted above, objectives need to be agreed and defined. Objectives were proposed in the 2012 Discussion paper¹⁰, but these have not been resolved and NSIA has made a number of suggestions to better reflect the intent of FAP 2011 and past practice and standards.¹¹

"Transitional Business Assistance – up-front payments to eligible persons based on their recent catch history..." - This clearly states it is to deal with (a) individuals - hence persons, and (b) 'their recent catch history', and is consistent with FAP 2011 and the Ministers' media release that stated *"The package will be designed to meet case-by-case needs of these fishers and businesses"*. The proposed methodology in the Appendices uses an average of others' reporting of spatial fishing patterns on logbooks, generic prices etc, which "socialises" the impacts at the fishery, rather than individual impact, level. These issues are covered further in the comments on the Appendices below.

East Coast Tuna and Billfish Fishery fisher:

Our best years are not covered by the history period. The ABARES figures do not account for the real values associated with the Coral Sea fishery catches that we can demonstrate undervalue it substantially. Each operator around the country should be able to gather their own history and make their particular case for fair adjustment.

"Receiving Transitional Business Assistance does not disqualify a person from participating in other elements of the Package." - This appears to be different wording from the FAAP "Fact Sheet", which more clearly states "Fishing businesses that receive the initial Transitional Business Assistance will be

¹⁰ The Fisheries Adjustment Assistance Package for new Commonwealth Marine Reserves - Discussion Paper. SEWPAC, September 2012.

¹¹ Fisheries Adjustment Assistance Package for new Commonwealth Marine Reserves: Discussion paper. NSIA Submission, October 2012.

able to participate in other elements of the assistance program. Payments under one element will be independent of payments under another." This latter Fact Sheet wording is supported and should be in the TBA Guidelines, as it removes any ambiguity about each phase being independent.

"Removal of effort" – refers to payments to remove entitlements where the reserves would cause "unsustainable ecological or economic impact". This appears quite a different position to the Ministers' media release that defined "removal of effort from impacted fisheries".

Business advice assistance and support for workers – As previously stated by the industry, it is presumed that business assistance advice and assistance for employees (under the effort removal element) are relatively uncontroversial. However, the timing and details of the nature of this assistance requires further work. For example, the business advice assistance might allow fishers to group their assistance payments in order to achieve the most effective and efficient outcomes under this component of the package. We recommend these issues are resolved through FAAP guideline development as recommended above.

Vertically integrated impacts – there remain no guidelines, timelines for implementation and uncertainty. This is despite the Ministers' firm commitment to assisting these businesses - *"There will be specialised assistance on a case by case basis for vertically integrated businesses that are especially impacted"*¹², and reaffirmed in a letter to the Commonwealth Fisheries Association dated 4 February 2013 - *"...Some money has also been reserved to help a limited number of vertically-integrated fishing businesses that may be particularly impacted by the reserves to the point where their overall operations are rendered unviable..."*

NSIA understands that a number of operators have communicated with SEWPAC about this component of the FAAP, but the issue remains unresolved. NSIA also understands that there are numerous fishing businesses that believe they have significant vertically integrated business impacts.

East Coast Tuna and Billfish Fishery fisher:

The FAAP and draft TBA guidelines do not account for the substantial amount of revenue generated on shore from these fishing activities which is ignored in ABARES values which have always substantially undervalued our fishery. e.g. 06/07 we caught ~2,500t of albacore in the Coral Sea which was processed by local factories generating gross income of ~\$1.00/kg on top of the beach price paid. This kept our businesses going as we were forced to move away from sword fishing by introduction of catch limits.

Recommendation 5: *That vertically integrated business impact assistance guidelines be released and these impacts be clearly and adequately considered on a case by case basis, consistent with the public commitment by two Ministers*

NSIA supports the statement on page 8 that the "Australian Government may vary the Package". It is not acceptable to confine compensation/adjustment assistance to only rights holders. Any

¹² The Hon Tony Burke MP and Senator the Hon. Joe Ludwig. Joint Media Release, 14 June 2012. Author's emphasis.¹³ King T.J. (2005). Crisis of meanings. Divergent experiences and perceptions of the marine environment in Victoria, Australia. *The Journal of Anthropology*. 16(3): 350365.

scheme should ensure recompense is available to ameliorate all identified impacts. There are numerous examples highlighting significant social costs and inequities which can result for fishers through declaration of marine reserves¹³. There is also a significant body of evidence demonstrating that social impacts associated with their declaration have historically been poorly recognised^{14,15}. GBR RAP was a classic example, where initial impacts were significantly underestimated.

Recommendation 6: *As stated in Attachment 1, the industry has a long-held view that both “direct” and “indirect” impacts should be addressed.*

3.1.3. TBA outline and thought bubbles (pages 9-10)

NSIA believes the overview and process of the proposed TBA could be more clearly summarised than in the thought bubble layout. Perhaps keep that format in the Guidelines, but include a flow diagram of the full process as well.

The fundamental concerns, such as limited flexibility, definitions of authorised to fish, and other process issues are outlined above and further below.

3.1.4. Eligibility and payment amount (pages 11-14)

Who can apply? (page 11)

NSIA cannot support the current eligibility criteria, given the circumstances surrounding the TBA and FAAP as a whole. This includes:

1. The proposed timing of the FAAP components (or “elements”), resulting in likely gaps between impacts on the water and potential assistance
2. The “generic” and inflexible methods for calculating TBA mean that case by case¹⁶ impacts are not necessarily being taken into account and impacts are being “socialised” at the fishery, rather than individual level, resulting in potential perverse outcomes and contrary to the undertakings of the Ministers and FAP 2011
3. Vertically integrated businesses are not clearly or adequately considered.
4. Decline in fishery asset values does not appear to have been considered.
5. Prospectivity is not considered.
6. Upstream and downstream impacts are not considered.

¹³ King T.J. (2005). Crisis of meanings. Divergent experiences and perceptions of the marine environment in Victoria, Australia. *The Journal of Anthropology*. 16(3): 350365.

¹⁴ Agardy T., Bridgewater P., Crosby M.P., Day J., Dayton P.K., Kenchington R., Laffoley D., McConney P., Murray P.A., Parks J.E. and Peau L. (2003). Dangerous targets? Unresolved issues and ideological clashes around marine protected areas. *Aquatic Conservation: Marine and Freshwater Ecosystems* 13. 353367

¹⁵ Jones P. (2006). Collective action problems posed by no-take zones. *Marine Policy* 30: 143156

¹⁶ Fisheries Adjustment Policy – Supporting the Creation of Commonwealth Marine Reserves. Australian Government, 2011.

7. The proposed appeal mechanisms do not provide for a genuine merit based review.
8. There is no special circumstances category for businesses that can demonstrate a significant impact but fall outside the guidelines.

These factors make the current eligibility criteria unacceptable. There is a real possibility that those with significant impacts, but falling outside the inflexible criteria for TBA, could miss out on any assistance under the announced FAAP.

For example, an operator who has fished for 20 years in an area may have leased their entitlements for the last qualifying year, including the “specified time”, but will fish in the area again in the future. As such, they would receive no TBA assistance. Further, given the Minister has announced that sectoral measures will be a competitive grant process and entitlement buyout (for the apparently few fisheries that meet the criteria) will likely be market/tender based. There is absolutely no guarantee that such an operator will receive any assistance at all.

WA West Coast Marine Scalefish fisher:

I have minimal history (between 600 and 1000kg) in the other years due to being new in the fishing industry, but I have invested heavily in the industry and would like some assistance to help finding new fishing grounds and replacing the catch that will ultimately be displaced in the long term.

A colleague’s catch rates in the MPA’s are as follows:

July 07-08	5000kg @ \$9kg	\$45000
08-09	6600kg @ \$9kg	\$59400
09-10	4500kg @ \$9kg	\$40500
10-11	4850kg @ \$9kg	\$43650
11-12	8000kg @ \$9kg	\$72000
TOTAL displaced catch		\$260550

Our fishery operates on a 10nm square block system of catch records so this is information of very high accuracy. Using the current system to assess the TBA he may only receive a payment of between 20-30k which is totally unacceptable for someone with 30 years of fishing history in the area.

We operate on a 40-50% profit margin in our fishery so the 20% assumed profit isn’t fair for us. I believe the whole catch should be accounted for because it is not just the profit we are losing it is the turnover that is vital to the viability of our operation (If we turnover say 200k for a 100k profit and then we lose 50k of catch, the running costs are still 100k so the profit will potentially only be 50k which as you are probably aware will make us unviable).

Also the first point on the Appendices for TBA catch displacement methods is extremely alarming:

“Analysis methods will apply to each fishery as a whole and will not be “customised” to the circumstances of individual businesses”

This contradicts the whole package and needs to be clarified so that individuals are not disadvantaged.

The definition of “authorised to fish”, as specified in Appendix C, is extremely problematic and requires further consideration. Given the very short timeframes to respond, NSIA has not been able to fully assess what the implications are, and are therefore not in a position to support application of TBA based on these definitions alone. There are complex legal and fairness considerations that require more time to resolve. It seems that in some cases, TBA would flow to the owners of the entitlements, in others it could be the skipper or even an authorised representative in some cases.

How will TBA be calculated and why? (pages 12-14)

For the same reasons as above, NSIA questions the formula “*three times assumed profit on the estimated average annual foregone catch value*” as an adequate and fair calculation. Clearly, compounded onto the inflexible methods used, there will be “winners and losers.”

Regarding “*estimated average foregone catch value*”, there needs to be special circumstances defined where the assessment period, prices or other relevant factors may be varied to account for certain circumstances and/or in some fisheries.

Recommendation 7: NSIA recommends that the default period should be the best 3 of 10 years to the end of 2012, with case by case assessment of businesses meeting certain criteria.

WA’s South Coast Trawl Fishery:

Far West Scallops owns 3 of the 4 licenses authorised to trawl for scallops and finfish in Western Australia’s South Coast Trawl Fishery (SCTF). From Far West’s perspective, I wish to make the following comments in respect to the *Transitional Business Assistance (TBA)* Guidelines as they apply specifically to the SCTF:

The proposed assessment period (1 July 2007 to 30 June 2012) marks a time where recruitment and catch across the SCTF is significantly less than the long-term average for the Fishery. The average catch over the assessment period (i.e. inclusive of the 2008 to 2012 seasons) is 19.1 tonnes of meat weight. The long-term average catch in the SCTF (i.e. the period 1990 to 2012) is 45.7 tonnes. Scallop fisheries exhibit highly variable recruitment and catch that shift in accordance with changing environmental conditions. Profitability in the SCTF and the asset value of the licenses is unquestionably driven by the catches that are achieved in seasons where recruitment has been strong and catches are good. A short, 5-year, assessment period will not necessarily capture the productive potential or reflect the true commercial value of the Fishery. The proposed assessment period plainly does not incorporate any of the Fishery’s good catch seasons. In these circumstances compensation to license holders via *TBA* will not adequately reflect true value and thus cannot be regarded as being fair and equitable. A short assessment period might be valid and adequately reflect long-term catches for some fisheries where the annual catch of the target species is relatively constant. However, this approach does not apply to the catch of scallops in the SCTF and Far West is significantly disadvantaged by the ‘one-size fits all’ approach to *TBA* taken by the Commonwealth.

The proposed process does not seem to allow for eligible applicants to review the catch and price information assumed for their operation, prior to the Minister making a decision about the level of TBA to be paid. Potentially eligible applicants need an opportunity, preferably early in the implementation of TBA and definitely prior to a decision by the Minister, on the quantum of payment, to review the catch and price information used to generate the estimates displaced GVP. Industry believes that where records can be shown that justifies using additional information over and above the default criteria, this should be available.

NSW fishers:

A concern for NSW fishers is that only activity reported through the NSW State Government will be recognised. Historically, the NSW catch records have not been strongly enforced and the NSW state Government has often accepted alternative documentation in the justification of a fisher's activity. This has led to a relaxed attitude within the industry towards the accuracy of the records and could lead to significant issue once fishers try to justify their historical activity.

It is unclear what would happen in circumstances where operators only had one or two years catch in the qualifying years. The draft document states "this will be averaged". Does this mean pro-rata catches apply for missing years, or that only catch for one year applies, significantly limiting the apparent "impact" and final payment?

Assumed profit (page 13)

It is unclear how the 20% figure was determined. This assumed profit value should be higher, in the form of 40-50%. This is necessary, especially considering the "gap" issue (lag between impacts and assistance) and that in some cases TBA will be the only payment some fishers receive. Further, many operators have reported much higher profit margins and pointed out that businesses run on turnover, not just profit.

In addition, the preliminary tax advice noted in the Draft TBA Guidelines is that the TBA payments will be deemed as taxable income.

The blanket statement that "*the actual profit of any eligible applicant will not be used*" is unacceptable. If an individual can provide evidence of the direct profit and impact on that person, they should be eligible for assistance in accordance with that level of profit.

Recommendation 8: *A higher "assumed profit" level should be used. Further, operators should be able to provide evidence (eg, tax records etc) of higher than default "assumed" profit levels*

Three year period to adjust

There should be a statement included to the effect that this does not cover the 'exceptions', or special circumstances, where significant impacts on rights/fisheries will be realised from the reserves. There should be separate consideration for those, including for example a fast tracking of the entitlement buyout phase of the FAAP.

Coral Sea trawl fishery (also relevant to section 4.2)

Our fishery will have 100% of the fishing grounds removed under the Coral Sea marine reserves when they are implemented on 1 July 2014. This precludes the operation from continuing in the interim, while any future adjustment assistance is assessed; means the capital value of the fishing license is totally removed currently with no consideration under the Transitional Business Assistance proposed package – with consequential loss of both asset value, interest repayments and ability to derive income while broader adjustment principles are developed.

Minimum payment threshold

NSIA does not support this threshold. Those with the least capacity to afford the reserves impacts are being perceived as being treated with no compassion or consideration. We reiterate calls that those impacted should receive fair and adequate assistance.

Other factors

NSIA has a long-held view that there is a need for special circumstances provisions in the FAAP, and this includes the TBA. This section should state what factors may generally be considered in assessing special circumstances applications - eg quantum of impact is 75% or greater, asset value implications, highly variable fisheries (i.e recruitment driven or other), developing fisheries with increasing values in later years and high margin fisheries for whom the assumed margin would not likely be reasonable.

WA West Coast Rocklobster:

The sanctuary zone, west of Kalbarri in the NW Bioregion, is in an area currently closed to Rock Lobster fishers. The closure commenced for the 08/09 season meaning only one year of catch data would be admissible. It is likely that the area will be opened at some time in the future.

East Coast Tuna and Billfish Fishery fisher:

We have outlined on many occasions to SEWPAC that the big issue for ETBF is gear drift. It not only applies to Coral Sea but TE as well with Derwent Hunter Seamount a popular fishing spot. We have always strongly pushed for a 60 mile buffer as a requirement for catch history consideration as we float our gear from the surface and it is subject to movement by the currents. If we fish against the green line and our gear drifts over it will be a Commonwealth offence. This means we will have to employ a reasonable buffer to allow for this especially as we use paid skippers who do not always think as clearly as we may ourselves about the risks.

As previously stated, the use of a formula driven approach needs to take into account the highly variable nature of the fisheries affected and the potential for exceptions to be developed in agreed circumstances.

Recommendation 9: *That the formula driven TBA takes into account special circumstances situations. Where individuals can demonstrate special circumstances, such as significant impacts, higher profits (through prices and/or catches) etc, there needs to be an opportunity for them to make that case*

3.1.5. Application process (pages 15-16)

Further details regarding the application process in relation to transparency and accountability should be included in this section. NSIA calls for the reinstatement of advice to eligible applicants relating to the catch record summary. Eg, from draft Guidelines (December 2012) –

“Notification of catch history in new Commonwealth marine reserves

Commercial fishing businesses which may meet the eligibility criteria under section **Error! Reference source not found.** will be sent catch record summaries by registered mail as part of the application pack from their relevant fisheries management agency. The catch record summaries for relevant licences will specify:

- weight of catch by species for each financial year in the assessment period in the areas of the fishery in which the eligible applicant would no longer be able to operate as a result of the introduction of the new Commonwealth marine reserves;
- estimated foregone catch value for each financial year in the assessment period based on beach prices ; and
- identification of the best three years in the assessment period.

Commercial fishing businesses which receive catch record summaries should check those summaries against their own records and contact the relevant fisheries management agency prior to **[insert date]** if they consider that a catch record summary is incorrect.”

There must be reasonable time to apply (minimum 60 days).

3.1.6. Assessment of Application (pages 17-20)

Under “Clarifications”, it’s not clear what information provided by applicants could be inconsistent with the catch record summary, since as proposed, no catch data is being requested from applicants.

At “Assessment of Applications”, NSIA does not consider it fair or equitable that the Department assess and exclude a non-eligible applicant without the right of review of such a decision. This section reads that applicants can be excluded and not advised, and without a process to respond. This is confirmed in the prior section, which states *“The department is not required to seek clarification...”*. For natural justice reasons the guidelines must allow a person to a fair hearing and enable review of a decision that affects that person.

Recommendation 10: *that any decision by the Department regarding eligibility must be included as a matter for review under section 5.7 Review*

Under section 5.4 “Decision”, NSIA understands that the TBA (and other components of the FAAP) will be delivered under the *Natural Heritage Trust Act of Australia 1997* (NHT Act) and note that this legislation does not make provision for administrative or merits review.

However, the NHT Act (section 20) does make provision for decisions to be made jointly by the Environment Minister and Agriculture Minister for grants of financial assistance to a person.

As the Fisheries Adjustment Assistance Package was jointly announced by both these Ministers (14 June 2012¹⁷) NSIA considers it highly appropriate, and to enhance accountability relating to impacts on the commercial fishing industry, that both Ministers are party to any final decisions for all components of the FAAP, including the TBA.

Recommendation 11: *that the guidelines provide for decisions to be made by both the Environment Minister and the Agriculture Minister and that relevant changes to all sections of the guidelines be made to reflect this.*

Under “Notifications of Decision”, the estimated displaced GVP needs to be broken down into price and catch data by fishery and species, to allow operators an opportunity to review this calculation. As stated above, the original letter to eligible applicants should include the catch record summary, with this detail included.

“Response by applicants” - NSIA considers the 15 days proposed for persons to respond to a Departmental notice entirely inappropriate and undermines fairness in the TBA program. We note that other financial assistance schemes run by the government provide much more appropriate and reasonable timeframes. For example, under the Drought program (DAFF) the Transitional Farm Family Payment Policy Guidelines provides for six (6) weeks.

Sufficient time must be made available to provide a person with adequate time to consider the implications of the decision and prepare a response for the Department.

Recommendation 12: *a minimum of 30 business days should be made available as an appropriate timeframe to enable responses to the initial Ministerial decision.*

Section 5.7 “Review” - For natural justice reasons NSIA calls for the guidelines to provide greater clarity in relation to who will undertake any review. It does not consider that reference to the ‘Department’ is adequate or appropriate. It also does not align with community expectations of due process already set by other government programs. Any review must be undertaken by a person/panel independent of the original assessors/assessment.

Recommendation 13: *that the guidelines provide for a review to be referred to a Review Officer or Panel that is independent. The guidelines should also outline the remit of the independent Review Officer/Panel.*

¹⁷ <http://www.environment.gov.au/minister/burke/2012/mr20120614a.html>

For example, will:

- a. look at the information used by the original assessment,
- b. where possible, talk to the Applicant to discuss the matter,
- c. check whether any new, relevant information is available,
- d. where possible, clarify any misunderstandings,
- e. correct any mistakes that may have been made,
- f. make a recommendation to the Minister.

3.1.7. Rights and Responsibilities (pages 21-23)

Regarding section 6.1, NSIA recommends that these guidelines include sufficient detail and clarity relating to objectives, process, procedure and requirements so that applicants can be assured of properly understanding the requirements and comprehensively completing an application. We note the following statement potentially raises unreasonable risk to industry if the guidelines and application form are inadequate:

The *department* does not accept responsibility for any misunderstanding or failure by you to comply with these guidelines, or arising from any discrepancies, ambiguities, inconsistencies or errors in an application.

We make the observation that the entire onus appears to be on industry and none on Government.

NSIA expects full confidentiality to be upheld where appropriate and expected.

We question the need to publicly specify, at the operator level, the amount of payment received. This could be unnecessary and potentially cause appeals, animosity and confusion. Perhaps payments should only be reported at the fishery level?

3.1.8. Further Information (page 24)

There is a need for an appropriate process to communicate “substantive changes” (should write to applicants as a minimum).

As stated above, given it is likely to be assessable income – assumed profit for default calculations should be higher, not just 20%. Also – some payments may well be “compensation” for giving up rights and assets (but likely in other FAAP phases) – need to check this

3.2. APPENDICES to draft TBA Guidelines, June 2013

Appendix A

No comment.

Appendix B

Given that under current draft TBA Guidelines any fisheries not listed are not eligible, NSIA reiterates the need for special circumstances provisions in the Guidelines .

Appendix C

There are concerns regarding the definition of "Authorised to fish". Commonwealth unclear ("Owner or holder"), NT and Qld could be owner, skipper or even authorised rep? As stated in section 3.1.4 above, this is complicated, with legal, fairness and consistency implications for the fishing industry nationally, and needs more work.

Appendix D

Many of the issues regarding catch displacement are highlighted throughout this submission. The key concern is the consistent statements about the methods applying to the fishery as a whole, which socialises the impacts and denies operators a fair and reasonable case by case assessment.

WA West Coast Rock Lobster:

(1) West Coast Rock Lobster (WCRL) reporting only accommodates one block per day. We may operate in up to three blocks per day but only record the block with the most effort. This means significant effort and catch may not be recorded in the right block.

(2) WCRL reporting blocks cover 100 sq nautical miles. Our area of operation may be limited to less than 1 sqnm of that block, but will be both intensive and productive. Averaging the catch over the percentage of the block effected by the sanctuary will greatly distort the true impact on total catch. Depth stratification will do little to cure this problem.

(3) Using "whole of fishery" data to arrive at a figure of forgone catch will penalize individuals who have spent many years refining their knowledge of an area to yield much higher than average CPUE's. Not all operators were created equal.

(4) Not having any details of the next two stages of the FAAP means we have no way of knowing how critical the TBA may be to offering meaningful compensation to fishers. How aggressive should we be at this early stage of the process?

Obviously points 1,2&3 could be easily dealt with if fishers were dealt with on an individual basis. The WCRL fishery, as with many fisheries, is focused on small isolated patches of bottom to yield the majority of the catch. To approach this program with such a generic approach is only going to ensure that those most affected will miss out on an appropriate level of compensation.

ECTBF fisher:

I believe that if the Commonwealth wishes to impose these Marine Parks on people then they have an obligation to meet people's expectations for fairness and this can only be done on a case by case basis. We should reject out of hand their method of achieving this and hold the Minister to account for his commitment. Each operator around the country should be able to gather their own history and make their particular case for fair adjustment.

Appendix E

The concerns have been raised in the submission above. Some examples of concerns are given below:

ECTBF:

ABARES average price for swordfish is not close to the average price received by the Northern operators who catch the most swordfish and for which it is a large part of their business. Albacore price was probably correct in those more recent years chosen but in the 2006 years when we started the albacore fishery in Coral Sea we had a beach price of ~\$2.50+ and were exporting large amounts of fish to Spain ~\$4-\$5.00/kg net. Why do prices not reflect the catch history period rather than the period when fishing was affected by high fuel prices and a high dollar?

WA:

Price concerns, particularly WA shark, but also the fact that some operators always receive higher prices, Eg, west coast scalefish – such operators will be penalised

SW WA shark fisher:

I have just checked the beach prices for fish we catch in our fishery and cannot understand where they have got these prices? I have attached the price we get for the fish we sell. This is for whole fish.

	SEWPAC	Our prices
Bronzie	4.76	10.00
Gummy	5.53	8.00

Northern Prawn Fishery:

The NPF Industry Pty Ltd does NOT support the averaging approach to establish beach prices, nor do we believe that the use of CPI indexation is an appropriate indicator of future prices. As an example, the average price for NPF banana prawns is cited at \$9.58 (based on CPI estimations to June 2013). The average beach price for banana prawns sold in the 2013 banana prawn season was \$13.00. Direct sales in 2013 were as high as \$15.00 to \$16.00.

NT price examples:

Concerns were raised by operators that the prices were too low and also did not take into account the size of a fish. Fish are based on a small, medium, large whole weight size and are priced according to market demand. For example, Goldband Snapper are priced based on small (600g to 1Kg), medium (1Kg to 1.5kg) and Large (1.5kg and above). Large Goldband snapper receive \$3.30 more per kilo compared to small Goldband Snapper.

A range of specific price differences raised by individuals included:

NT Offshore Net and Line Fishery

	SEWPAC	Our prices
Grey Mackerel	5.38	8.00

NT Timor Reef Fishery

	SEWPAC	Our prices
Goldband Snapper	7.84	9.00
Red Emperor	7.94	9.80
Crimson Snapper	3.82	4.80

NT Spanish Mackerel Fishery

	SEWPAC	Our prices
Spanish Mackerel	5.38	14.00

WA shark fishery (Esperance PFA):

Below are some of DSEWPac prices and corresponding prices from our buyer. I would like to see after they identify who qualifies for compensation a payment substantiated by tax records. This would be fairer for fishers who receive better prices for their product.

I am the industry representative for the WA shark fishery and I am concerned at the prices quoted for some of the WA species, especially shark. Following is a list of prices that we receive from two processors on the south coast of WA. – ensure used

Species:	DSEWPac Price	WA Beach Price	Perth Price
Gummy Shark	\$5.53	\$8.50	
Eastern School	\$3.30	\$8.50	
Bronze Whaler	\$4.76	\$7.50	\$10.00
Whiskery	\$4.54	\$7.00	
Sandbar	\$3.10	\$5.00	
Blacktip	\$1.51	\$2.00	
Hammerhead	\$1.28	\$1.50	
Saw	.87	\$1.50	
Wobbiegong	\$1.85	\$2.50	
Queen Snapper	\$4.35	\$4.50	

4. Other matters relevant to FAAP development

4.1. Inclusion of those impacted – upstream and downstream impacts

The exclusion of businesses elsewhere in the fishing industry value chain is unjust, and is not consistent with the policy statements (FAP 2011):

“Any decision on whether adjustment assistance will be provided to fishers or fishing dependent communities as a result of an MPA declaration or re-zoning will be made on a case by case basis. The decision will be made only after an assessment of all the impacts is undertaken.” and

“...intended to address concerns about fairness and equity regarding the impacts on individual fishers and those reliant on the fishing industry.”

As stated above, we contend, based on the findings of independent advice, that the Government has not fulfilled its commitment to undertaking an assessment of impacts to allow reasonable case by case assessment of impacts on the fishing industry, fishing related businesses and communities to be made. It is not for NSIA to speak on behalf of other industries (eg boat repairs, seafood processing). That said, the Discussion Paper clearly fails to address the impacts on communities. Those affected by the marine reserves will apparently need to pursue their claims through other mechanisms outside this package and accordingly those impacts are not specifically addressed in NSIA submission.

However, we would like to make clear our disagreement with the Government’s decision to exclude them from the current process.

Recommendation 14: *To meet the Government’s own policies in relation to fairness and equity, negative economic impacts on both fishers and “those reliant on the fishing industry” must be assessed and included in calculations for adjustment assistance, whether within the proposed fisheries adjustment package, or other Government programs.*

4.2. Special circumstances, including Prospectivity considerations

Currently, there is no special circumstances category for businesses that can demonstrate a significant impact but fall outside the “guidelines”. This is critical, to ensure flexibility, fairness and equity principles (among others) are met.

NSIA strongly believes that prospectivity must remain open as a potential impact for assessment and adjustment assistance.

WA SW Trawl operation:

A prime example to highlight where a business like ours falls outside the criteria is the following:

When the original MPA plan was originally announced in WA, 2 latent licences activated in our fishery (only 3 licences in total) so they could demonstrate history to access perceived “compensation” that was going to be made available. This put 3 times the typical effort into a small fishery. The only way we could halt the increase in effort and stop the excessive exploitation was to buy out the 2 licences. Our business has already been impacted by having to remove effort ourselves to keep effort at sustainable levels and we bear the ongoing cost of financing those purchases. We are now not substantially impacted by the MPA BUT have 2 licences sitting on the shelf that we have been forced to buy due to the implementation of marine reserves, with the slow (and still ongoing) development of compensation arrangements giving rise to perverse incentives for fishers to increase effort.

ECDWZ fisher:

During development and consultation on the boundaries and zoning, an area of the ECDWZ (including coordinates) was identified as valuable and important in the main NSIA consultation submission. This advice was overlooked and the area is now subsequently going to be closed to the fishery, once the marine reserves come into effect. Based on the proposed TBA guidelines, and specifically the narrow and strict nature of the methods, I will not receive any TBA. This is despite commercial quantities and catches of ECDWZ species being identified in the period July to December 2012. I invested in this fishery on the known developmental nature of the fishery. I am now expected to wear this long-term impact, which is a significant opportunity cost impacting future earning potential and asset value loss.

4.3. Stakeholder involvement/technical Steering Committee

Government policy, in the form of the FAP 2011, specifically outlines, among other things, that:

“In the event of a decision to provide adjustment assistance, management agencies, industry and the community will be involved in program design”

The joint media release of 14 June 2012¹⁸, by Minister’s Burke and Ludwig, further cemented the need for and commitment to involvement of key experts, stating that:

“...the Government will work with industry to develop measures...” and

“Government and industry will work together to establish an assistance package”.

The fishing industry welcomes these statements and has the long-held position that one of the most important aspects of marine reserve network declaration is to follow due process, as identified in the FAP 2011. In developing and finalising FAAP guidelines, and equally importantly in bedding down the detail and implementation aspects of the package, the fishing industry has a strong expectation that the principle of involvement of the fishing industry and other experts, with reasonable and clear timelines and due process, will be adhered to.

¹⁸ Tony Burke and Joe Ludwig (2012) Industry assistance to precede marine reserves, Media Release

MRAG found that participation of stakeholder groups affected by the rezoning (or their representatives), as well as technical experts in relevant fields (e.g. fisheries management in jurisdictions affected, social impact assessment, community development), is critical in the design and implementation of adjustment assistance schemes.¹⁹ This ensures appropriate knowledge, data and expertise is at the table, assists with meeting transparency and maintaining support and ultimately is most likely to help structure the package to ensure most effective delivery. As stated in industry letters, it also maximises the chances of getting the best result and value for money for Government and in addition, fairness to the community and industry.

4.4.Appeals

As stated in prior submissions, NSIA strongly believes that as part of the legal duty to act fairly, merit appeal rights must be an inherent part of any policy.

Clear schemes should be set up, access to the Administrative Appeals Tribunal should be preserved, and no attempt made to forestall the ability of a merit based review. It is believed that with a well-designed scheme, merit appeals are a lot less likely to happen/be successful compared to a departmental process for example. A two tiered approach could be adopted to try and resolve issues at “least cost” in the first instance. SEWPAC (or preferably independent body) could be tasked with internal review in the first instance, which might enable them to eliminate obvious anomalies or resolve issues. The final appeal rights on the merits would then be through the AAT.

As a matter of good public policy privative clauses should be avoided. Given the High Court’s dim view of privative clauses in *Kirk v Industrial Relations Commission* [2010] HCA 1 (3 February 2010), such an approach should not be pursued. As noted above careful design, with the transparent involvement of industry expertise will lead to superior outcomes.

4.5.Monitoring and Evaluation

NSIA believes that this is a very important component of a national adjustment assistance package, especially considering that various components will likely need to be designed to address specific issues at the regional level. An appropriate, independent monitoring and evaluation framework will help to ensure the package is meeting its defined objectives, and could be used to make any necessary adjustments as the package is rolled out. Any monitoring framework must be developed as early in the process as possible to ensure adequate assessment of impacts. NSIA believes that the FAAP should be a consideration of a monitoring and evaluation framework. We draw to your attention the Minister’s commitment to the fishing industry on this:

*“The nature of the actual adjustment that will occur in response to the creation of the marine reserves at the local level is dependent on how individual fishers respond to their changed circumstances and how they use the financial assistance provided under the Package. Therefore, the government will closely monitor the impact of the reserves on the fishing industry and fishing dependent communities and how they adjust to it as part of the implementation of the Package...”*²⁰

¹⁹ MRAG (2010). Adjustment Assistance for Public Good Marine Conservation: A review of past Australian practice and implications for future measures to offset impacts on the seafood industry.

²⁰ Minister Burke letter to Commonwealth Fisheries Association dated 4 February 2013.

As noted above, there are no clearly defined objectives currently stated for the FAAP or the Draft TBA Guidelines.

4.6.Communication

An effective communication strategy should be developed to ensure, among other things, stakeholders understand the package details, requirements, where information and assistance can be sourced and timing and process issues.

Fishing industry summary - framework for an appropriate Adjustment Assistance Package

The first principle of adjustment assistance that was provided to Government in development of the Fisheries Adjustment Policy, and then again many times during the process of consultation on the reserves was:

- *Comprehensive socio-economic impact assessment is undertaken prior to the declaration of marine reserve networks to assist in informing the design and implementation of any adjustment assistance package.*

In our view, this has not been adequately undertaken and has created much concern within the fishing industry, associated industries, and local communities. It requires urgent redressing by formulating an appropriate, effective framework for adjustment assistance that is clear to all who are likely to be impacted.

NSIA believe the following principles are critical elements of a framework for an Adjustment Assistance package.

- 1. That no reserves will come into effect until adjustment assistance is in place and provided to those impacted.**

Media release 14 June 2012 from Minister Burke and Minister Ludwig states that "...*Government and industry will work together to establish an assistance package. I want to make it clear that reserves will not come into effect until industry assistance is in place and flowing,*" Minister Burke said..."

- 2. Adjustment assistance that identifies and accounts for:**

- **Restrictions on fishing activities** from the declaration, zoning and management of marine reserve networks (eg a multiplier on lost income per annum; effective cover for lost asset value and factor for lost opportunities);
- **Impacts:**
 - **On individual fishers, integrated fishing businesses, fishing concession holders** (for example to cover direct loss of value of fishing rights/licenses/permits and assets including at sea, on shore, and future prospectivity)
 - **At the fishery level** where there are significant impacts on economic returns or the sustainability of the fishery
 - **On fisheries management** including adjustment to effort and fishers behaviour/catch/costs and impacts on overall fishery levy distribution for operators (eg less operators, same levy charge).
 - **On scientific information and programs** necessarily changed as a result of shifts in fishers' behaviour, possible loss of access into marine reserves (eg for surveys, steaming etc) and catch trends: impacts on stock assessment assumptions, indicators such as CPUE, RBC outcomes, MEY calculations etc

which will require additional research funding and support for scientific investigation

- **On local communities.**

3. The adjustment scheme should include all those impacted in the industry and broader - direct and indirect impacts must be taken into account.

It's not acceptable to confine compensation/adjustment assistance to only rights holders. Any scheme should ensure recompense is available to ameliorate all identified impacts.

4. Adjustment assistance to be considered on a case by case basis.

Legal rights to compensation must be met, however, impacts that extend beyond this must also be addressed. Flexibility is required to develop appropriate programs.

5. Adjustment assistance should not be “capped”, either at the scheme level or for individual claims.

Compensation costs should “be what they are”, based on identified socio-economic impacts and within agreed guidelines.

6. An independent advisory group should be created to recommend appropriate adjustment assistance levels.

This puts the Minister and Department at arms-length from the process and avoids allegations of bias being levelled at government.

7. Merit appeal rights must be an integral part of any policy.

A two tiered approach could be adopted to try and resolve issues at “least cost” in the first instance.