

The Auditor-General
Audit Report No.38 2008–09
Performance Audit

**Administration of the Buyback Component
of the Securing our Fishing Future Structural
Adjustment Package**

Department of Agriculture, Fisheries and Forestry

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of Australia 2009

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Canberra ACT
27 May 2009

Dear Mr President
Dear Mr Speaker

The Australian National Audit Office has undertaken a performance audit in the *Department of Agriculture, Fisheries and Forestry* in accordance with the authority contained in the *Auditor-General Act 1997*. I present the report of this audit and the accompanying brochure to the Parliament. The report is titled *Administration of the Buyback Component of the Securing our Fishing Future Structural Adjustment Package*.

Following its tabling in Parliament, the report will be placed on the Australian National Audit Office's Homepage—<http://www.anao.gov.au>.

Yours sincerely

A handwritten signature in black ink that reads 'Steve Chapman'.

Steve Chapman
Acting Auditor-General

The Honourable the President of the Senate
The Honourable the Speaker of the House of Representatives
Parliament House
Canberra ACT

AUDITING FOR AUSTRALIA

The Auditor-General is head of the Australian National Audit Office. The ANAO assists the Auditor-General to carry out his duties under the *Auditor-General Act 1997* to undertake performance audits and financial statement audits of Commonwealth public sector bodies and to provide independent reports and advice for the Parliament, the Government and the community. The aim is to improve Commonwealth public sector administration and accountability.

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Glossary and abbreviations

ABARE	Australian Bureau of Agricultural and Resource Economics
AFMA	Australian Fisheries Management Authority
AGS	Australian Government Solicitor
the algorithm	An effective procedure for solving particular mathematical problems in a finite number of steps. For the buyback, ABARE developed a series of mathematical programs that could be solved using Generalised Algebraic Modelling System software.
ANAO	Australian National Audit Office
ATO	Australian Taxation Office
BAA	Business Advice Assistance program
BRS	Bureau of Rural Sciences
BSCZSF	Bass Strait Central Zone Scallop Fishery
DAFF	Department of Agriculture, Fisheries and Forestry
DEH	Department of the Environment and Heritage which is now known as the Department of the Environment, Water, Heritage and the Arts.
ETBF	Eastern Tuna and Billfish Fishery
Fishing concession	A statutory fishing right or fishing permit as defined in the <i>Fisheries Management Act 1991 (Cth)</i> .
Marine Protected Area (MPA)	Marine protected areas are Commonwealth reserves under the <i>Environment Protection and Biodiversity Conservation Act 1999</i> (the EPBC Act).
NPF	Northern Prawn Fishery

Request for Tender (RFT)	A Request for Tender is a published notice inviting suppliers who satisfy the conditions of participation to submit a tender in accordance with requirements of the request for tender and other request documentation.
SCA	Skipper and Crew Assistance program
SESSF	Southern and Eastern Scalefish and Shark Fishery
SFR	statutory fishing right
Target fishery	A fishery identified as a target fishery by the government for the purposes of the buyback program.
Tender	Documents provided by a stakeholder in response to the release of a Request for Tender.
the 10 per cent method	The process whereby additional concessions were purchased in a fishery if the reduction target had been met. Additional concessions were purchased at a price of up to 110 per cent of the highest price 'paid' by the algorithm. Within the context of the buyback program, the price 'paid' is the value allocated by the algorithm to each concession offered within a tender.

Summary and Recommendations

Summary

Introduction

1. Australia's fisheries are managed either by the Commonwealth, by the States/Northern Territory or through a joint authority involving two or more of these parties. Generally, Commonwealth law applies from the three nautical mile limit of State/Territory coastal waters to the limit of the Australian Fishing Zone.¹ The right to access and catch fish for commercial purposes in Commonwealth-managed fisheries is controlled by the Australian Fisheries Management Authority (AFMA) through fishing concessions, such as statutory fishing rights and fishing permits.

The *Securing our Fishing Future* package

2. On 23 November 2005, the former Minister for Fisheries, Forestry and Conservation (the then Minister) announced the *Securing our Fishing Future* package. The package was intended to address factors affecting the sustainability of the Commonwealth's fish stocks and the profitability of the fishing industry. These factors included overfishing², excess fishing capacity and economic and market pressures. Its primary component was a structural adjustment package. The Minister also advised that the other element of the package would be new management measures to halt overfishing and give overfished stocks a chance to recover.³

3. The \$220 million one-off structural adjustment package, which was delivered by the Department of Agriculture, Fisheries and Forestry (DAFF), was to:

- buy back up to \$149 million in fishing concessions within and across Commonwealth-managed fisheries;

¹ The Australian Fishing Zone (AFZ) extends to 200 nautical miles from the Australian coastline and includes the waters surrounding Australia's external territories, such as Christmas Island in the Indian Ocean and Heard and McDonald Islands in the Antarctic.

² Overfishing refers to the amount of fishing and where a fish stock is experiencing too much fishing. As defined in: Bureau of Rural Sciences, Larcombe, J. and McLoughlin, K. (eds), *Fishery Status Reports 2006: Status of Fish Stocks Managed by the Australian Government*, Canberra, 2007, p. 2.

³ On 14 December 2005, AFMA was formally directed by the then Minister (under s.91 of the *Fisheries Administration Act 1991(Cth)*) to implement these measures.

- provide \$50 million in grant assistance to individuals, businesses and companies that had been affected by the impacts of the buyback and/or by the new management measures; and
- provide \$21 million to AFMA (over three years) to offset the expected reduction in levies received from fishing concession holders (\$15 million) and improve its science, compliance and data collection (\$6 million).

The buyback program

4. The objectives of the Fishing Concession Buyback (the 'buyback' program also known as the Business Exit Assistance program) were to:

- facilitate business exit from the Australian fishing industry;
- remove Commonwealth fishing concessions, especially from targeted fisheries, within a capped budget;
- remove significant fishing capacity within and across Commonwealth fisheries to contribute towards the recovery of overfished fisheries and to assist their management on a more ecologically sustainable basis; and
- remove certain fishing concessions and related fishing effort displaced by a proposed marine protected area in the south-east marine region.⁴

5. The buyback offered the holders of eligible concessions the opportunity to rationalise their business or to exit the industry. The voluntary tender process primarily targeted concessions in the following four fisheries where stocks were overfished or at risk of being overfished:

- Bass Strait Central Zone Scallop Fishery (BSCZSF);
- Eastern Tuna and Billfish Fishery (ETBF);
- Northern Prawn Fishery (NPF); and
- Southern and Eastern Scalefish and Shark Fishery (SESSF).

⁴ In May 2006, the then Department of the Environment and Heritage (DEH), which is currently known as the Department of the Environment, Water, Heritage and the Arts (DEWHA), announced 13 Marine Protected Areas (MPAs) in the south-east marine region which stretches from the far south coast of New South Wales, around Tasmania and Victoria and west to Kangaroo Island (South Australia).

The RFT process

6. The first Request for Tender (RFT) was released on 30 March 2006 and was sent to holders of eligible fishing concessions. One or more tenders could be submitted in each round and tenders could be linked to other concession holders' tenders if, for example, fishers were in partnership together. Each tender was to indicate the concession(s) offered, the total price asked and, in round one, the price asked for each concession. Tenders for round one closed on 22 June 2006 and 551 tenders were received. A second RFT was released on 19 October 2006 with tenders closing on 23 November 2006. DAFF received 324 tenders in the second round.

7. Assistance to complete the RFT was available from DAFF's helpdesk and website and from the RFT contact officer. DAFF also held public information sessions and tenderers could seek funding for professional advice (such as accounting and legal) through the Business Advice Assistance (BAA) program.⁵

Evaluating and selecting tenders for purchase

8. DAFF established a dedicated Fisheries Adjustment Taskforce in its Fisheries and Forestry Division to develop and administer the buyback program. It also provided secretariat support to the evaluation panel that was appointed to oversee the evaluation process and recommend successful tenders to the program's delegate.

9. Tenders were screened by DAFF for compliance with the RFT's conditions and for errors, and eligible tenders were then evaluated against the evaluation methodology. ABARE translated the evaluation methodology into a series of mathematical programs (the algorithm) that could be solved using the Generalised Algebraic Modelling System.⁶ By using an algorithm, DAFF did not need to set maximum prices for each type of concession purchased. Using the total prices asked and the concessions offered by tenderers, the algorithm analysed the tenders to identify the maximum number of concessions that could be purchased across the fisheries with the funds available (the 'optimal'

⁵ The Business Advice Assistance (BAA) program was administered by DAFF as part of the structural adjustment package. A grant of up to \$1500 was available to each applicant.

⁶ The Generalised Algebraic Modelling System is an off-the-shelf software package designed for modelling linear, nonlinear and mixed integer optimisation problems and particularly suited to large, complex problems. A summary of how the algorithm worked is provided in Appendix Two.

bundle). Through this process, DAFF sought to achieve value for money for the program.

10. To find the optimal bundle, the algorithm assigned an 'effective' price to each concession. If the tender contained one concession then the effective price would equal the total price asked. However, if multiple concessions were offered, the algorithm could assign multiple combinations of effective prices that equalled the total price asked. Each tenderer received the total tender price asked but the effective prices 'paid' by the algorithm for each concession in a tender could be very different to the individual prices asked.⁷

11. Tenders selected by the algorithm were recommended by the evaluation panel and approved by the decision maker (a senior DAFF officer). The then Minister announced the results of the: round one evaluation on 15 September 2006; and round two evaluation on 22 December 2006. In total, DAFF purchased 292 tenders for a total cost of \$148.7 million. The prices paid per tender ranged from \$6000 to \$9.6 million. More than 550 fishing concessions (approximately one-third of the total number of concessions available) were purchased. The targeted number of concessions in the SESSF, ETBF and NPF were exceeded but the target set for the BSCZSF was not met.⁸ Only 22 of the 122 BSCZSF packages (18 per cent) sought were purchased.

Independent assessment and audit of the buyback

12. In June 2008, the Minister for Agriculture, Fisheries and Forestry announced that Ernst & Young would undertake an audit of the buyback program. This audit honoured an election commitment made prior to the 2007 federal government election to review whether unsuccessful BSCZSF fishers 'were rejected on the basis of good public policy and value for money considerations'.⁹ Ernst & Young's audit examined DAFF's administration of the tender evaluation processes for the buyback of BSCZSF fishing concessions to identify if the tenders were evaluated appropriately and consistently in

⁷ Within the context of the buyback program, the price 'paid' is the value allocated by the algorithm to each concession offered within a tender. Appendix Three illustrates how the algorithm distributed the total prices asked across the concessions offered in three successful tenders.

⁸ The panel sought the following reductions in the total number of concessions in each fishery: a 30 per cent reduction in the ETBF; a 25 per cent reduction in the NPF; an approximately 50 per cent reduction in the SESSF and an 80 per cent reduction in the BSCZSF.

⁹ The Honourable Tony Burke MP, *Rudd Govt. to hold early review of Bass Strait scallop licence buyout*, DAFF08/071B, 2 June 2008.

accordance with the RFT's evaluation criteria.¹⁰ Ernst & Young did not identify any inconsistencies with the rules set out in the evaluation plan and the methodology or in the application of the algorithm.

Audit objectives and scope

13. The objective of the ANAO's audit was to examine the effectiveness of DAFF's implementation and administration of the buyback of fishing concessions under the *Securing our Fishing Future* structural adjustment package.

14. In undertaking this audit of the buyback program, particular emphasis was given to the following elements:

- participating in the buyback;
- evaluating tenders; and
- finalising the buyback program.

15. The \$21 million provided to AFMA under the structural adjustment package (refer to paragraph three) was not examined in this audit. The ANAO has audited the department's administration of the industry and community assistance grant programs in *Audit Report No.39 2008–09, Administration of the Securing our Fishing Future Structural Adjustment Package Assistance Programs*, which has been tabled in conjunction with this report.

Overall conclusion

16. The *Securing our Fishing Future* package sought to improve the sustainability of the Commonwealth's fish stocks and the profitability of the fishing industry by reducing fishing capacity, particularly in the target fisheries. The voluntary buyback program offered eligible concession holders the opportunity to exit the industry or to rationalise their businesses. The longer-term benefits of the buyback are to be supported by the improved fishery management measures being introduced by AFMA.

17. DAFF successfully completed the buyback of fishing concessions and exceeded the reduction targets established for three of the four target fisheries.

¹⁰ Available from http://www.daff.gov.au/fisheries/domestic/independent_audit_of_the_voluntary_surrender_of_fishing_concessions [accessed 24 October 2008].

The target was not achieved in the BSCZSF primarily because the prices asked for the concessions being offered in this fishery were considerably more than the department was prepared to pay.

18. To evaluate the 875 tenders received, DAFF translated the evaluation methodology into a series of mathematical programs (the algorithm). Given the complexity of the evaluation process and the large number of tenders involved, this was an innovative and practical approach. The algorithm selected the maximum number of concessions that could be purchased within the available budget, which DAFF had defined as the benchmark for achieving value for money.

19. In circumstances where an algorithm is used as the basis for decisions in tender selection processes, it is important that effective assurance processes are put in place to provide confidence that the results generated are accurate and soundly based. For the buyback program, there were no formal quality assurance processes in place during the development and running of the algorithm to provide assurance that it was operating correctly. This was particularly important as manual steps were incorporated into the process.

20. The algorithm was applied across all fisheries and no inconsistencies were identified by Ernst & Young and the ANAO. However, the evaluation process was not transparent as the selections made could not be compared or interrogated easily by the evaluation panel, the decision maker or the tenderers. There was also a lack of documentation to support key elements of the evaluation process. In particular, the testing of the algorithm and the briefings provided to the evaluation panel and decision maker on the evaluation results. Minutes were also not kept for the meeting where the panel reviewed and discussed the evaluation results in round one.

21. The decision maker was briefed on the process followed, the evaluation methodology and the results generated by the algorithm, a list of tender numbers for purchase and the total price asked for each tender. Despite assurances being given by ABARE that the results were correct, errors resulted when the algorithm's settings were adjusted to accommodate time pressures in round one. The tenders were re-evaluated after DAFF had finalised both rounds and three additional tenders were selected.

22. The buyback's communication strategy did not effectively manage the lack of transparency surrounding the process for stakeholders. In the absence of any information to the contrary, fishers assumed that the prices asked for

individual concessions in successful tenders were paid. In reality, because of the way the algorithm evaluated the tenders, this was not necessarily the case even though the total price asked was always paid. Providing more detailed information about how the algorithm would evaluate and select successful tenders would have gone some way to addressing stakeholders' expectations.

23. Should this approach be adopted for any future evaluations, the process would be strengthened and greater assurance given for the outcomes if key risks were better managed. The key risks for the buyback program were the lack of quality assurance processes, the transparency of the evaluation process and managing stakeholders' expectations. Although DAFF advised that it had assessed the risks associated with using the algorithm, the assessment and mitigation strategies were not documented. The ANAO has made one recommendation that incorporates the lessons learnt from the buyback.

24. It is too early to determine the extent to which the buyback program has impacted the sustainability of fish stocks and the profitability of the fishing industry. The full effect of the buyback program will also be influenced by the effectiveness of the management measures being instituted by AFMA. DAFF has engaged ABARE to assess the impact of the buyback program. It is currently examining survey data and its first report will be released in July 2009.

Key findings by Chapter

Participating in the buyback (Chapter Two)

25. DAFF developed and implemented in both rounds a multi-faceted communication strategy for the structural adjustment package. The strategy outlined the intended audience for the buyback, the key messages to be promulgated and the channels that would be used to distribute information. The RFT and its addenda provided potential tenderers with clear instructions and a reasonable basis for understanding the legal responsibilities of submitting a tender. DAFF provided many avenues to obtain advice and assistance.

26. For some potential tenderers, their key questions, which centred on the pricing of concessions and how the tenders would be evaluated, remained unanswered. Potential tenderers were not advised that an algorithm would be used to evaluate tenders and DAFF did not release round one price

information publicly prior to round two, although it had advised in the RFT that it may.

27. DAFF's communication strategy would have been more effective if it had explained to tenderers that an algorithm would be used to evaluate tenders and provided the reasons for this approach. There would also have been merit in offering some insight as to how the algorithm would evaluate the tenders based on the total tender price asked, fishery budgets and reduction targets and not the prices asked for individual concessions. In its audit of the buyback program, Ernst & Young also found that clearer guidance could have been provided to fishers regarding how the department was going to assess value for money.

Evaluating tenders (Chapter Three)

Evaluation plan

28. An evaluation plan was developed for each round, which documented the evaluation process and methodology. Each plan was comprehensive and supported the systematic evaluation of tenders. The methodology documented the number of fishing concessions that DAFF sought to purchase in each target fishery and the budgets available to achieve each target. Although the overall approved budget for the program (\$149.5 million) did not change, DAFF revised the budget allocations.

29. DAFF advised that revisions to the budget were made in consultation with the then Minister. However, the department was unable to provide documentation to support the decisions to give additional funds to the BSCZSF or to redistribute the MPA allocation. Further, the calculations underpinning the initial budget and the quantum of funds provided to the non-target fisheries and the BSCZSF in the revised budget could also not be provided. The final budget was signed off as part of the evaluation plan.

Indicative prices set for round two

30. DAFF incorporated 'indicative' prices—the maximum price that DAFF was prepared to pay for each type of concession—into the evaluation methodology for round two. With the exception of the 'indicative' price set for BSCZSF packages, indicative prices were based on information collected from successful tenders in round one. DAFF was unable to provide documentation to support the rationale for setting the indicative price for the BSCZSF

packages at \$110 000. The then Minister agreed with this price and was aware that potential tenderers would not be advised of the indicative price.

Developing the algorithm

31. Developing the algorithm was an iterative process, which involved: ABARE analysing synthetic data generated using random prices to help understand the operation of the evaluation methodology; refining data inputs; and running the algorithm with test data. DAFF was unable to provide documentation to support the tests undertaken, revisions made as a result of this testing or discussions between the panel and ABARE during the development of the algorithm. DAFF also advised that it assessed the risks associated with using the algorithm. However, it did not document this assessment or any strategies to mitigate the identified risks.

32. Ernst & Young examined the extent to which the algorithm complied with the evaluation procedures stated in the evaluation plan and methodology. Scenarios were used to test particular aspects of the specifications contained within the RFT and the evaluation methodology. No inconsistencies were identified in the application of the algorithm or with the rules set out in the evaluation plan and methodology. The ANAO's review of the algorithm did not find evidence to the contrary.

33. The 10 per cent method was also reviewed as its application required an ABARE officer to manually intervene in the process by adjusting the code to instruct the algorithm what to do next. Although the adjustments reflected the evaluation methodology, testing undertaken as part of the audit identified that there was limited documentation available to support these manual steps. When the manual steps were replicated, no inconsistencies were found. However, this does not necessarily mean that the manual processes carried out in the actual evaluations were performed similarly.

34. Although the need to test the algorithm had been discussed, there were no formal quality review processes in place even though introducing manual processes as part of the 10 per cent method increased the potential for error. There would have been merit in the evaluation panel and/or the decision maker signing off the algorithm to confirm that adequate testing had been undertaken and there was confidence that the algorithm would perform the evaluation as expected.

Process for evaluating tenders

35. DAFF effectively screened the tenders received and implemented processes to manage the extensive errors in the tenders. DAFF advised that, of the 875 tender received across two rounds, in excess of 400 tenders contained errors or required clarifications. The high error rate in round one extended the evaluation timeframe by six weeks.

Consideration of the results by the panel

36. Contrary to the probity arrangements put in place for the tender evaluation, no minutes were kept for the meeting (held over two days) where the panel received and discussed the evaluation results from round one. DAFF advised that the outcomes of this meeting were captured in the round one evaluation report. The members of the evaluation panel advised that, although not part of the formal process, they undertook 'spot checks' to confirm that the results of single tenders were 'as expected' and for the multiple fishery tenders, the results 'looked reasonable'. The chair of the evaluation panel advised that queries were raised and satisfactory answers provided by the DAFF contact officer. However, there was no documentation to support these checks and the evaluation report does not record any checking processes or the queries that were raised.

Data integrity checking

37. Running the algorithm was time consuming. Further, managing the errors identified in the round one screening process reduced the time available to run the algorithm. To help the algorithm to run more quickly, ABARE adjusted the algorithm's settings. The adjustment of the settings and the potential risk this created was not documented and the panel and the decision maker were not advised during the evaluation process. A data integrity check in January 2007 identified errors in the results of the round one evaluation, which were caused by the adjustments ABARE had made to the algorithm. Round one tenders were re-evaluated with the algorithm set correctly. This re-evaluation identified three tenders that should have been selected and were not, and one tender that had been purchased and should not have been. DAFF subsequently purchased the concessions offered in the three additional tenders.

Was value for money achieved?

38. For the buyback, DAFF defined value for money as the maximum number of concessions that could be purchased with the available funding.

Within the parameters set by the evaluation plan, the department purchased the concessions identified as offering the best value for money by the algorithm. However, when the round one tenders were re-evaluated, DAFF identified one tender (\$50 000) that had been purchased and was not value for money.

39. It was also uncertain whether value for money was achieved in round one when additional concessions were purchased in fisheries where reduction targets had already been met. Particularly, as the price paid for these concessions was up to 10 per cent more than the highest price previously paid (the 10 per cent method). For example, almost \$14 million was spent on purchasing additional concessions in the ETBF. There was no analysis of whether purchasing these concessions offered better value than purchasing concessions in the other target fisheries or in round two.

Finalising the buyback program (Chapter Four)

40. DAFF has publicly reported the number of fishing concessions that were removed through the buyback program. DAFF has not reported publicly on the amounts (average prices/ range of prices) paid to tenderers or the extent to which the buyback's policy objectives have been achieved.

41. It is too early to determine the extent to which the buyback program has impacted the sustainability of fish stocks and the profitability of the fishing industry. The full impact of the buyback program will also be influenced by the effectiveness of the management measures being instituted by AFMA. In 2006–07, DAFF engaged ABARE to collect benchmark data for a later assessment of the full impact of the structural adjustment package. ABARE is currently examining survey data collected for three of the four target fisheries. It was not possible to examine the other target fishery, the BSCZSF, in the same way as it has been closed to all fishing since 2006.¹¹ ABARE is expected to report on the impact of the buyback program in July 2009. This work will also provide a basis for measuring any future impact of the buyback on the successful fisheries.

¹¹ The former Minister for Fisheries, Forestry and Conservation formally closed the Bass Strait Central Zone Scallop Fishery (BSCZSF) from 2006 for a minimum of three years.

Summary of agency response

42. The ANAO provided a copy of the proposed report to DAFF. In addition, the ANAO provided an extract of the relevant sections of the proposed report to all members of the evaluation panel, for comment.

43. A response was received from DAFF. A copy of DAFF's full response is included in Appendix One. DAFF also provided the following summary comments:

The department accepts the ANAO's conclusion that the buyback was successfully completed and that appropriate advice and assistance were provided to applicants. DAFF also notes the ANAO's conclusions that the evaluation of tenders was comprehensive, with the use of an algorithm in the evaluation being an innovative and practical approach. DAFF acknowledges that there were limitations in the documentation surrounding the development and implementation of the evaluation process and agrees with the ANAO's recommendation regarding enhancing the transparency and accountability of any future evaluation processes.

Recommendation

Recommendation No. 1

Paragraph 3.65

To enhance the transparency and accountability of any future evaluation process when evaluation tools such as an algorithm are used, the ANAO recommends that the Department of Agriculture, Fisheries and Forestry:

- (a) assess and document the risks associated with using an algorithm and develop appropriate mitigation strategies;
- (b) develop and implement quality assurance processes surrounding the development and running of the algorithm and the results generated; and
- (c) incorporate in any evaluation methodology and plan, the capacity for the evaluation panel to intercede at appropriate decision points in the process.

DAFF Response: *Agreed.*

Audit Findings and Conclusions

1. Background and context

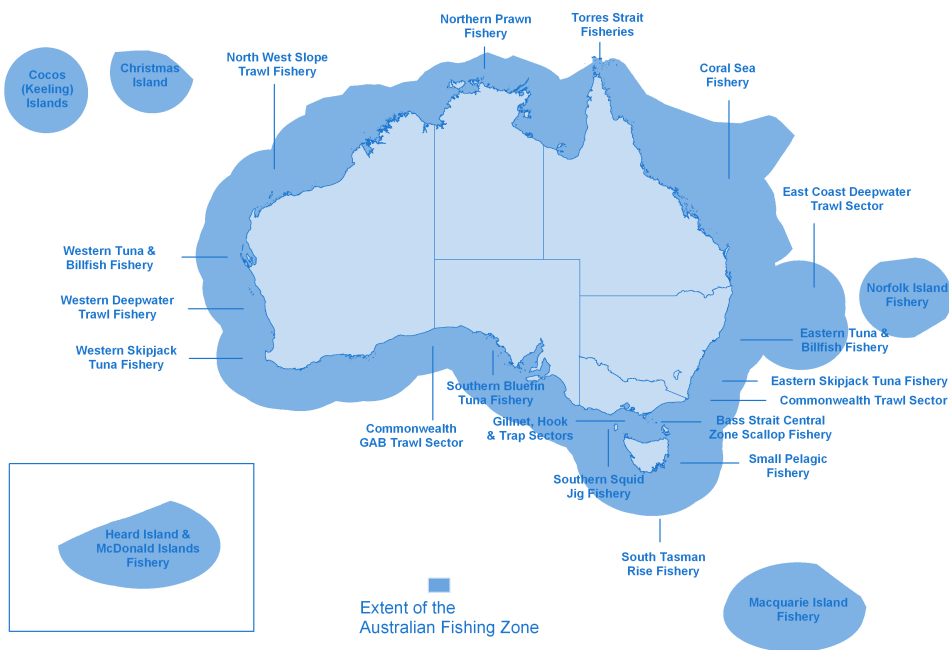
This chapter provides the context for the Securing our Fishing Future structural adjustment package. The audit objective, scope and methodology are also outlined.

Management of Australia's fisheries

1.1 Australia's fisheries are managed either by the Commonwealth, by the States/Northern Territory or through a joint authority involving two or more of these parties. Generally, Commonwealth law applies from the three nautical mile limit of State/Territory coastal waters to the limit of the Australian Fishing Zone¹² (shown in Figure 1.1).

Figure 1.1

Australian Fishing Zone



Source: Australian Fisheries Management Authority.

¹² The Australian Fishing Zone (AFZ) extends to 200 nautical miles from the Australian coastline and includes the waters surrounding Australia's external territories, such as Christmas Island in the Indian Ocean and Heard and McDonald Islands in the Antarctic.

1.2 The right to access and catch fish for commercial purposes in Commonwealth-managed fisheries is controlled by the Australian Fisheries Management Authority (AFMA) through fishing concessions, such as statutory fishing rights and fishing permits. In 2006–07, Australia’s commercial fisheries produced 240 000 tonnes of fish valued at \$2.18 billion. Of this, Commonwealth-managed fisheries produced 56 800 tonnes valued at \$293 million (approximately 24 per cent of Australia’s total catch).¹³

The *Securing our Fishing Future* package

1.3 On 23 November 2005, the former Minister for Fisheries, Forestry and Conservation (the then Minister) announced the *Securing our Fishing Future* package. The package was intended to address factors affecting the Commonwealth’s fish stocks and the profitability of the fishing industry. Its primary component was a structural adjustment package. The Minister also advised that the other element of the package would be new management measures to halt overfishing and give overfished stocks a chance to recover.¹⁴

Background to the package

1.4 Through its annual reviews of fish stocks between 1992 and 2005, the Bureau of Rural Sciences (BRS) identified a trend of overfishing in Commonwealth-managed fisheries. In 2005, of the 83 fish stocks assessed, 24 were classified as ‘overfished and/or subject to overfishing.’¹⁵ AFMA also noted that in 2005, the ecological sustainability, economics and management of the Commonwealth’s fisheries were being affected by, amongst other things, excess fishing capacity and effort as well as economic and market pressures such as, rising operating costs and unfavourable exchange rates for export.¹⁶

¹³ Australian Bureau of Agricultural and Resource Economics, *Australian Fisheries Statistics 2007*, Canberra, 2008, pp. 1 and 11–12.

¹⁴ On 14 December 2005, AFMA was formally directed by the then Minister (under s.91 of the *Fisheries Administration Act 1991(Cth)*) to implement these measures.

¹⁵ ‘Overfished’ refers to the amount of fish and where there are too few fish left. Overfishing refers to the amount of fishing and where a fish stock is experiencing too much fishing. As defined in: Bureau of Rural Sciences, Larcombe, J. and McLoughlin, K. (eds), *Fishery Status Reports 2006: Status of Fish Stocks Managed by the Australian Government*, Canberra, 2007 pp. 2, 5 and 8.

¹⁶ Australian Fisheries Management Authority, *The domestic and international environment*, available from <http://www.afma.gov.au/fisheries/industry/domestic_intal_environment.htm> [accessed 9 September 2008].

1.5 There have been ongoing efforts by the Government and the fishing industry to address these factors. For example, the buyback of fishing concessions in the South East Trawl Fishery in 1992 and 1998 to address excess capacity, and in the Great Barrier Reef Marine Park in 2004 to offset the reduction of fishing zones. Fishers have also directly financed voluntary buybacks within their fisheries to reduce capacity and improve returns. In 1997, the Northern Prawn Fishery undertook a voluntary adjustment scheme to protect prawn stocks.

Components of the structural adjustment package

1.6 The \$220 million one-off structural adjustment package, which was to be delivered by the Department of Agriculture, Fisheries and Forestry (DAFF) was to:

- buy back up to \$149 million in fishing concessions within and across Commonwealth–managed fisheries;
- provide \$50 million in grant assistance to individuals, businesses and companies that had been affected by the impacts of the buyback and/or by the new management measures;
- reduce the amount that AFMA would need to cost-recover through fishing concession holders to implement the new management measures (\$15 million); and
- improve AFMA’s science, compliance and data collection (\$6 million).

1.7 The then government had instigated the package because:

- it had determined that many Commonwealth fisheries were incapable of self adjusting due to the economic climate at the time; and
- it was necessary to reduce fishing capacity, in association with catch reductions that had been announced by AFMA to better position industry to be profitable and self adjust in the future.

The buyback program

1.8 The objectives of the Fishing Concession Buyback (the ‘buyback’ program also known as the Business Exit Assistance program) were to:

- facilitate business exit from the Australian fishing industry;

- remove Commonwealth fishing concessions, especially from targeted fisheries, within a capped budget;
- remove significant fishing capacity within and across Commonwealth fisheries to contribute towards the recovery of overfished fisheries and to assist their management on a more ecologically sustainable basis; and
- remove certain fishing concessions and related fishing effort displaced by the marine protected areas proposed in the south-east marine region.¹⁷

1.9 The buyback offered the holders of eligible concessions the opportunity to rationalise their business or to exit the industry. The voluntary tender process targeted concessions in the following four fisheries where stocks were overfished or at risk of being overfished:

- Bass Strait Central Zone Scallop Fishery (BSCZSF);
- Eastern Tuna and Billfish Fishery (ETBF);
- Northern Prawn Fishery (NPF); and
- Southern and Eastern Scalefish and Shark Fishery (SESSF).

1.10 Concessions were also sought from the following ‘non-target’ fisheries: informally managed fisheries¹⁸; Coral Sea Fishery; Small Pelagic Fishery; Western Tuna and Billfish Fishery; Southern Tuna and Billfish Fishery; Southern Squid Jig Fishery; Eastern Skipjack Jig Fishery; Eastern Skipjack Fishery; Western Skipjack Fishery; Western Deep Water Trawl Fishery; and North West Slope Fishery.

¹⁷ In May 2006, the then Department of the Environment and Heritage (DEH) which is currently known as the Department of the Environment, Water, Heritage and the Arts (DEWHA) announced 13 Marine Protected Areas (MPAs) in the south-east marine region which stretches from the far south coast of New South Wales, around Tasmania and Victoria and west to Kangaroo Island (South Australia).

¹⁸ Informally managed fishery means a commercial fishing activity that is managed under the *Fisheries Management Act 1991* by AFMA but that is not a fishing activity to which a management plan applies; or a fishing activity referred to in regulation 4B of the *Fisheries Management Regulations 1992 (Cth)*. For example, eligible concessions from informally managed fisheries included permits allowing fishing by purse seine methods for Silver Trevally.

Associated grant and industry assistance programs

1.11 Delivered in conjunction with the buyback program, were two grant assistance programs—Business Advice Assistance (BAA) and Skipper and Crew Assistance (SCA).¹⁹ Applicants for:

- BAA had to be eligible to submit a tender to the buyback program; and
- SCA had to demonstrate that they had lost employment because their employer had been a successful tenderer.

Administrative arrangements

1.12 DAFF established a dedicated Fisheries Adjustment Taskforce in its Fisheries and Forestry Division to develop and implement the buyback program. DAFF's role was to:

- develop the Request for Tender (RFT) document;
- assist stakeholders to understand the RFT;
- screen tenders received for compliance with the RFT's conditions and for errors;
- assess and approve BAA and SCA applications; and
- finalise payments to successful tenderers and grant recipients.

1.13 DAFF also provided secretariat support to the evaluation panel that was appointed to oversee the evaluation process. The panel, which included an officer from DAFF, an officer from the then Department of the Environment and Heritage (DEH) and an independent industry expert, recommended successful tenders to a senior DAFF officer who was the delegate for the program. The administrative arrangements in place for the delivery of the phases of the buyback program are shown in Figure 1.2.

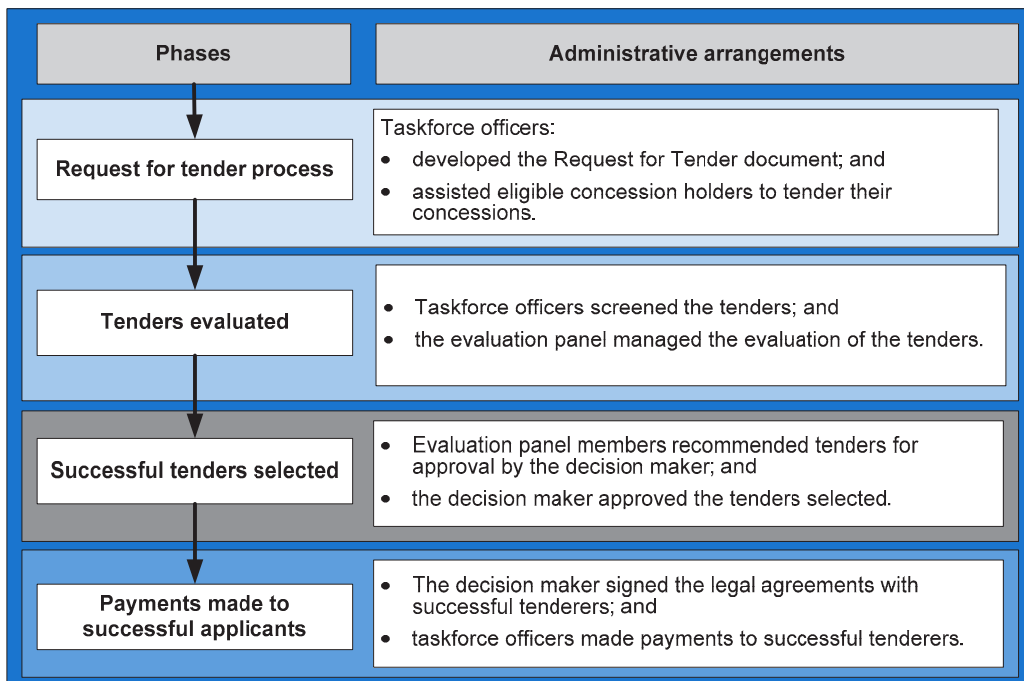
1.14 The Australian Bureau of Agricultural and Resource Economics (ABARE) was engaged through a service level agreement to provide advice on the evaluation approach and to develop and run the mathematical software program used for the evaluation process. ABARE was involved as it could provide relevant economic and modelling skills as well as a thorough

¹⁹ A grant of up to \$500 was available to each BAA applicant. A grant of \$5000 was available to skippers and \$3000 to crew members.

understanding of the economics of the fisheries involved. Advice was also sought from AFMA and BRS. The Australian Government Solicitor (AGS) was engaged as the probity advisor.

Figure 1.2

Phases and administrative arrangements for the delivery of the buyback program



Source: ANAO analysis of DAFF information

The RFT process

1.15 The first Request for Tender (RFT) was released on 30 March 2006. An RFT package was sent to the holders of eligible fishing concessions. One or more tenders could be submitted in each round and tenders could be linked to other concession holders’ tenders if, for example, fishers were in partnership together. A tender indicated the concession(s) offered, the total price asked and, in round one, the price asked for each concession. Tenders for round one closed on 22 June 2006 and 551 tenders were received. A second RFT was released on 19 October 2006 with tenders closing on 23 November 2006. DAFF received 324 tenders in the second round.

Assistance available to potential tenderers

1.16 Assistance was available from DAFF's helpdesk and website and from the RFT contact officer. DAFF also held public information sessions and tenderers could seek funding for professional advice (such as accounting and legal) through the BAA program. DAFF approved 395 BAA claims totalling \$545 000.

Evaluating and selecting tenders for purchase

1.17 Tenders were screened by DAFF for compliance with the RFT's conditions and for errors, and eligible tenders were then evaluated against the evaluation methodology. ABARE translated the evaluation methodology into a series of mathematical programs (the algorithm) that could be solved using the Generalised Algebraic Modelling System.²⁰ By using an algorithm, DAFF did not need to set a maximum price for each type of concession purchased. Using the total prices asked and the concessions offered, the algorithm was to identify the maximum number of concessions that could be purchased across the fisheries with the funds available (the 'optimal' bundle).

1.18 To find the optimal bundle, the algorithm assigned an 'effective' price to each concession. If the tender contained one concession then the effective price would equal the total price asked. However, if multiple concessions were offered, the algorithm could assign multiple combinations of effective prices that equalled the total price asked. Appendix Three illustrates how the algorithm distributed the total prices asked across the concessions offered in three successful tenders. In these instances, although each tenderer received the total tender price asked, the effective prices 'paid'²¹ by the algorithm for each concession in the tender were very different to the individual prices asked.

1.19 Tenders selected by the algorithm were recommended by the evaluation panel and approved by the decision maker. The then Minister announced the evaluation results from: round one on 15 September 2006; and round two on 22 December 2006. Successful tenderers were required to

²⁰ The Generalised Algebraic Modelling System is an off-the-shelf software package designed for modelling linear, nonlinear and mixed integer optimisation problems and particularly suited to large, complex problems. A summary of how the algorithm worked is provided in Appendix Two.

²¹ Within the context of the buyback program, the price 'paid' is the value allocated by the algorithm to each concession offered within a tender.

surrender their concessions before payment was made by DAFF. In total, DAFF purchased 292 tenders²² for a total cost of \$148.7 million. The prices paid per tender ranged from \$6000 to \$9.6 million. More than 550 fishing concessions (approximately one-third of the total number of concessions available) were purchased. The targeted number of concessions in the SESSF, ETBF and NPF²³ were exceeded but the target set for the BSCZSF was not met. Only 22 of the 122 BSCZSF packages²⁴ (18 per cent) sought were purchased.

Skipper and Crew Assistance program

1.20 Under the Skipper and Crew Assistance (SCA) program, skippers and crew members rendered unemployed by their employer being a successful tenderer could claim payments of \$5000 and \$3000 respectively. Grant assistance was intended to contribute towards the costs of relocation, retraining or retirement. Applicants were required to provide evidence of their employment and two statutory declarations—one made by the applicant and the other by the relevant (successful) tenderer. Successful applicants could not work as a skipper or crew member for the same employer for five years. In total, 39 skippers and 60 crew members received \$375 000 in assistance.

Independent review of the buyback

1.21 The Australian Labor Party made an election commitment prior to the 2007 federal government election to review whether unsuccessful BSCZSF fishers ‘were rejected on the basis of good public policy and value for money considerations’.²⁵ BSCZSF industry representatives had criticised DAFF’s handling of the tender process, arguing that they had been unfairly treated in comparison with other fisheries. Their key concerns related to how DAFF had valued the BSCZSF fishery, determined the prices that it was willing to pay for concessions and assessed the ‘value for money’ of tenders.

²² DAFF purchased 199 of the tenders offered in round one and 93 of the tenders offered in round two.

²³ The panel sought the following reductions in the total number of concessions in each fishery: a 30 per cent reduction in the ETBF; a 25 per cent reduction in the NPF and an approximately 50 per cent reduction in the SESSF.

²⁴ BSCZSF fishers were required to offer their concessions in a set ratio, which was referred to as a package. A package consisted of 3 500 Commercial Scallop SFRs, 3500 Doughboy Scallop SFRs and a Boat SFR, if one was held.

²⁵ The Hon. Tony Burke MP, *Rudd Govt. to hold early review of Bass Strait scallop licence buyout*, DAFF08/071B, 2 June 2008.

1.22 In June 2008, the Minister for Agriculture, Fisheries and Forestry announced that a review would be undertaken by Ernst & Young to determine if:

- DAFF’s assessment and evaluation of BSCZSF tenders in round one and round two of the licence buyback was conducted in accordance with the tender rules approved by the decision maker and approved probity requirements; and
- the evaluation methodology set out in the tender evaluation plans and used to evaluate tenders was applied consistently across tenders received from all eligible Commonwealth-managed fisheries.²⁶

Previous buyback programs

1.23 The ANAO reviewed a number of reports relating to buybacks undertaken in other fisheries in Australia and around the world.²⁷ In summary, each report stressed the importance of the relationship between the buyback and the ongoing management plan for the fishery. A report on the buyback of concessions in the Great Barrier Reef Marine Park indicated that a buyout and the effectiveness of the related fisheries management arrangements should be viewed as being inseparable. Where this did not occur, the reduction in effort achieved through the buyback was offset by the fishers increasing capacity or moving to alternate fisheries.

Audit objective, scope and methodology

Audit objective and scope

1.24 The objective of the audit was to examine the effectiveness of DAFF’s implementation and administration of the buyback of fishing concessions under the *Securing our Fishing Future* structural adjustment package.

²⁶ Available from http://www.daff.gov.au/fisheries/domestic/independent_audit_of_the_voluntary_surrender_of_fishing_concessions [accessed 24 October 2008].

²⁷ Reports reviewed by the ANAO included: Clark, C., Munro, G., and Sumaila, U., *Subsidies, buybacks, and sustainable fisheries*, *Journal of Environmental Economics and Management* 50 (2005) 47–58; United States General Accounting Office (GAO), *Commercial Fisheries: Entry of Fisherman Limits Benefits of Buyback Programs*, June 2000; and R. Quentin Grafton and Harry W Nelson, *The Effects of Buy-Back Programs in the British Columbia Salmon Fishery*, Australian National University, August 2005.

1.25 In undertaking this audit of the buyback program, particular emphasis was given to the following elements:

- participating in the buyback;
- evaluating tenders; and
- finalising the buyback program.

1.26 The \$21 million provided to AFMA under the structural adjustment package (refer paragraph 1.6) was not examined in this audit. The ANAO has audited the department's administration of the industry and community assistance grant programs in *Audit Report No. 39 Administration of the Securing our Fishing Future Structural Adjustment Package Assistance Programs*, which has been tabled in conjunction with this report.

Audit methodology

1.27 The audit methodology included quantitative and qualitative analysis and documentation and file reviews. The audit team interviewed DAFF staff, members of the evaluation panel and stakeholders, including representatives of each of the target fisheries. The ANAO also reviewed a number of reports relating to buybacks undertaken in other fisheries both in Australia and internationally.

1.28 The review of the BSCZSF, commissioned by the Minister, was undertaken in parallel with the ANAO's fieldwork. The ANAO and staff from Ernst & Young attended meetings in Lakes Entrance and Launceston to discuss fishers' concerns.

1.29 In examining DAFF's administration of the buyback program, the ANAO analysed an indicative sample of 84 tenders which offered concessions across target and non-target fisheries. The ANAO's sample included:

- 53 successful tenders;
- 31 unsuccessful tenders; and
- all tenders that successfully offered BSCZSF concessions.

1.30 To examine the application and assessment process for the BAA and SCA grants programs, the ANAO examined 10 SCA applications and five BAA applications.

1.31 The audit was conducted in accordance with ANAO Auditing Standards at a cost of \$325 000.

Structure of the report

1.32 Figure 1.3 shows the structure of this report.

Figure 1.3

Structure of the report

<p>Chapter One: Background and context</p>	<ul style="list-style-type: none"> • Management of Australia's fisheries • The <i>Securing our Fishing Future</i> package • The buyback program • Independent review of the buyback • Previous buyback programs • Audit objective, scope and methodology
<p>Chapter Two: Participating in the buyback</p>	<ul style="list-style-type: none"> • Communication strategy • Developing the buyback program • Release of the RFT packages • Preparing a tender
<p>Chapter Three: Evaluating tenders</p>	<ul style="list-style-type: none"> • Developing the evaluation approach • Evaluation plan • Developing the algorithm • Process for evaluating tenders • Applying the algorithm • Consideration of results by the panel • Data integrity checking • Lessons for the future
<p>Chapter Four: Finalising the buyback program</p>	<ul style="list-style-type: none"> • Managing payments • Managing compliance following the buyback • Reporting the results of the buyback program • Evaluating the effectiveness of the buyback program • Bass Strait Central Zone Scallop Fishery

Source: ANAO

2. Participating in the buyback

This chapter considers the activities undertaken by DAFF to raise awareness of the opportunity to participate in the buyback and the assistance provided to stakeholders.

Introduction

2.1 The buyback program provided an opportunity for fishers to rationalise their businesses or exit the industry by tendering some or all of their fishing concessions. The first Request for Tender (RFT) package was released to stakeholders on 30 March 2006 with tenders closing on 22 June 2006. A second RFT was released on 19 October 2006 and tenders closed on 23 November 2006. To help prepare their tenders, holders of eligible fishing concessions were able to access advice and assistance from DAFF and from other sources.

2.2 The ANAO reviewed DAFF's activities to raise awareness of the buyback among potential tenderers. The information and assistance provided to potential tenderers and the RFT package were also examined.

Communication strategy

2.3 In January 2006, DAFF developed and implemented for both rounds a multi-faceted communication strategy for the structural adjustment package. Specific communication activities for raising stakeholder awareness of the buyback and the related SCA and BAA programs were outlined in this strategy. The communication strategy also included the:

- intended audience;
- objectives of the *Securing our Fishing Future* package;
- key messages to stakeholders that assistance was available and involvement was voluntary; and
- channels for distributing documents and information to stakeholders (mail-outs, advertising, a telephone hotline and public meetings).

2.4 Information about the buyback program was available on DAFF's website. AFMA, the then DEH and Department of Transport and

Regional Services²⁸ websites also linked stakeholders to the information on DAFF's website. In addition, stakeholders could contact the helpdesk (by telephone, email or mail) and register their contact details and areas of interest. DAFF provided updates as relevant information was released.

Developing the buyback program

2.5 In developing the buyback program, DAFF consulted widely with ABARE, BRS and other Australian Government agencies including: AFMA; the Australian Taxation Office (ATO); the then DEH; and State fisheries managers. Advice was also sought from fisheries economics experts in relation to the concessions that should be bought from each fishery and the type of tender process that would best enable the department to achieve value for money and optimise fisheries management outcomes. Experts advised that:

- the tender process should be voluntary and competitive;
- tenders should be binding;
- budget allocations should not be advised to potential tenderers;
- tenders should be evaluated on a value for money basis (the cost-effectiveness of the tender in terms of the expected fishing effort that would be removed) rather than simply the price asked; and
- a two round process should be announced with information on the prices paid in round one released prior to the second round. The full budget should be available for round one to encourage early participation.

2.6 In addition, fisheries management experts were engaged to provide advice on various elements of the package, including tender design and evaluation. These consultants also reviewed the approach developed for the BAA and SCA programs.

2.7 Relevant industry associations and peak bodies were consulted during the development of the buyback and asked to comment on a draft of the RFT. Overall, stakeholders supported the buyback opportunity but some expressed concerns regarding:

²⁸ The Department of Transport and Regional Services (DOTARS) is now the Department of Infrastructure, Transport, Regional Development and Local Government.

- the limited information available in relation to the evaluation process and what prices would be paid;
- concessions being excluded from the buyback, such as certain quota concessions²⁹; and
- the value given to eligible but latent (unused) concessions.

2.8 Stakeholders had been advised in the announcement of the buyback program that the RFT would be released by the end of January 2006. The department revised this timetable following delays caused by:

- legal complexities relating to the *Fisheries Management Act 1991*;
- the need to incorporate appropriate assistance for those fishers affected by the MPAs once this information was announced; and
- consultation with industry, in particular with NPF representatives.

2.9 The final buyback approach and the RFT was signed off by the former Minister on 29 March 2006 and released the next day.

Approach to buying back fishing concessions

2.10 DAFF had regularly briefed the then Minister during the development of the approach to the buyback. The approved approach identified:

- a tender process that would allow two rounds;
- that price information may be released following round one;
- the delegate and the makeup of the evaluation panel;
- fishing concessions that would be eligible and the purchasing targets for the four targeted fisheries;
- arrangements for managing linked³⁰ and alternative³¹ tenders; and
- the policies for the BAA and SCA programs.

²⁹ A quota concession confers a right to catch a set quantity of a specific fish species in a specific fishery. Buying up quota concessions would directly reduce the quantity of fish that could be legally caught.

³⁰ Tenders could be 'linked' to other tenders where business arrangements, such as a partnership, made it necessary for the tenders to be accepted together.

³¹ Tenderers could submit an alternative tender to their 'primary' tender. The alternative tender would be considered only if the 'primary' tender was not considered to offer value for money.

2.11 The proposed evaluation process was also outlined. The evaluation panel was to identify notional effort reduction targets and funding levels. Eligible tenders would be evaluated by the panel for value for money, taking into account the preferences and considerations outlined in the RFT.

2.12 A second RFT was discretionary and would only to be announced if the first round had been undersubscribed, unreasonable bids were lodged or the objectives of the buyback were not achieved. The advantages and disadvantages of the approach as well as stakeholder concerns and views were also outlined to the then Minister. The use of a mathematical software program (an algorithm) to evaluate tenders was not discussed at this stage, although the former Minister had been advised previously that ABARE had been asked to develop a system for ranking tenders.

Release of the RFT packages

2.13 DAFF sent an RFT package to each of the approximately 900 holders of eligible concessions.³² Information on the assistance available through the BAA and SCA programs and the *Future Operating Environment for Commonwealth Fisheries* prepared by AFMA, were included.³³

2.14 DAFF's legal advisor developed the RFT, which outlined:

- the Australian Government's objectives for the RFT process;
- eligibility and participation criteria;
- how to submit a tender;
- how the RFT process would operate;
- DAFF's preferences and considerations for evaluating tenders; and
- the requirements that had to be met if the tender was accepted.

2.15 Attached as schedules to the RFT were the documents that the tenderer was to complete and submit—an information sheet, a statutory declaration and

³² Holders of eligible concessions were identified from AFMA's data. AFMA is required to maintain a register of statutory fishing right holders under s.44 of the *Fisheries Management Act 1991*. For permit type concessions, such as those held in the ETBF, permit holders were identified from AFMA's databases.

³³ The *Future Operating Environment for Commonwealth Fisheries* document outlined the new management measures that AFMA would implement.

a legal agreement. Tenderers documented in the legal agreement the concession(s) offered and the total price asked and signed it to indicate that the terms and conditions of participating in the RFT had been agreed to. In round one, tenderers were also required to document the price being asked for each concession tendered.

2.16 In June 2006, AFMA identified 20 eligible concession owners who had not been sent an RFT.³⁴ Of these 20, three had obtained the RFT through DAFF's helpdesk. DAFF contacted the remaining 17 concession owners and advised them of the buyback. The RFT package was also available from DAFF's website and from the AusTender website.³⁵

Addenda to the first RFT document

2.17 Following the release of the first RFT, DAFF released four addenda (outlined in Table 2.1). Addenda 1, 2 and 3 were re-sent to eligible concession holders (35) who had not received them. It also contacted concession owners (82) who received the addenda, although they had already relinquished their eligible concessions. The mailing list was corrected for the mail out of Addendum No. 4.

2.18 Contrary to the advice DAFF provided to fishers (and the probity advisor's recommendation) that at least four weeks would be allowed to consider any changes to the RFT, DAFF allowed only three weeks for tenders to be finalised following the release of Addendum No. 4 on 9 June 2006. DAFF advised that it was not necessary to extend the closing date because the impact of the announcement of the MPAs was less than originally thought.

³⁴ Where concessions have been leased, it is the lessee who is identified in AFMA's data.

³⁵ AusTender is used for the publication of Australian Government procurement information. The AusTender website is located at <<http://www.austender.gov.au>>.

Table 2.1**Addenda to the first RFT package**

Addendum No.	Release date	Announcement
Addendum No. 1	29 May 2006	Amendments were made to the clauses covering: improper conduct; offering to surrender one or some eligible fishing concessions covered by a fishing permit; minimum form and content requirements and its definition; the probity advisor; the NPF; and advice from State and Territories.
Addendum No. 2		There were new requirements for tendering ETBF long line and minor line permits.
Addendum No. 3		The closing date had been extended from 8 June 2006 to 22 June 2006
Addendum No. 4	9 June 2006	Advice that the final MPA locations had been announced.

Source: ANAO analysis of DAFF information

Release of the second RFT package

2.19 A second RFT package was released on 19 October 2006 with tenders closing on 23 November 2006. DAFF advised that the second RFT was modified to reflect the changes made to the first RFT and to make it simpler for tenderers to complete. Many tenders submitted in round one were found to contain errors and required clarification before the tender could be further evaluated.³⁶

Submitting a tender

2.20 Submitting a tender was voluntary and tenders could include eligible concessions from one or more fisheries. The RFT advised tenderers:

- of the preferences and considerations that would be used to evaluate the tenders;
- that the greatest number of concessions would be purchased within the limited pool of funds available; and
- that neither the lowest priced tender nor any tender would necessarily be accepted.

³⁶ The impact of these errors on the evaluation process is discussed in Chapter Three.

2.21 The department did not advise what the government's targets were for purchasing concessions in the ETBF, SESSF and BSCZSF. The specific (minimum) target for the NPF was made public as it had been agreed with these fishers.³⁷ DAFF considered that little advantage was gained by the NPF fishers as the RFT did not include the budgets available for any fishery. However, by knowing DAFF's target, NPF fishers were in a better position to evaluate what the future number of fishers would be in the fishery and this information could have assisted them in making their decision on whether or not to tender.

2.22 The RFT did not outline that a mathematical software program (the algorithm) would be used to evaluate tenders. In round one, this aspect was not finalised until after the RFT was released. Potential tenderers in round two were also not advised of this information, although it was clear that the algorithm would again be used to evaluate tenders.

Assistance provided by DAFF

2.23 The helpdesk received 843 calls from potential tenderers following the release of the RFT. In addition to the assistance available to stakeholders from the helpdesk, DAFF held 14 public information sessions to explain the RFT.³⁸ At each session, DAFF outlined the RFT and stakeholders could ask questions. Staff from the AGS, ATO and AFMA attended some but not all sessions to answer questions.³⁹ The ATO officer provided advice and a class ruling consistent with this advice was released on 19 May 2006. DAFF sent this information to stakeholders with Addenda 1, 2 and 3. In total, 295 people attended the information sessions. Similar sessions were not considered necessary for round two.

2.24 Probity requirements meant that DAFF staff could not discuss some information with stakeholders. Where DAFF took questions on notice, a

³⁷ Including the NPF in the buyback was conditional on the agreement of the NPF's fishers to move to output controls from 2008. Fishers agreed to output controls if the government agreed to pursue the purchase of a minimum number of concessions, although actual outcomes depended on the prices tendered and value for money considerations.

³⁸ Information sessions were held between 5 April and 3 May 2006 in Darwin, Cairns, Mooloolaba, Hobart, Launceston, Melbourne, Portland, Ulladulla, Eden, Lakes Entrance, Adelaide, Port Lincoln, Port Stephens and Coffs Harbour.

³⁹ AGS staff attended information sessions in Eden, Darwin, Lakes Entrance, Melbourne and Ulladulla. ATO staff attended all the information sessions except Adelaide, Coffs Harbour, Darwin, and Hobart. AFMA staff attended all the information sessions except Adelaide and Port Lincoln.

response was agreed with the probity advisor before it was posted on DAFF's website as a Frequently Asked Question (FAQ).

2.25 Key concerns raised by fishers about the RFT process were:

- how much to offer and what concessions to tender;
- the targets in each fishery;
- tax arrangements;
- how primary and alternative tenders should be prepared; and
- the closure of the BSCZSF.⁴⁰

2.26 Another area of concern was how tenderers could recover the lost value of boats and fishing gear if they exited the industry. DAFF's advice had been that the price asked for concessions should represent what the fishers required to exit the industry but it should be kept in mind that the process was competitive and was seeking value for money. To help clarify this advice, DAFF provided an example of an operator who was able to sell their boat for \$400 000 (roughly half its value) and may consider adding the additional value of their business in the sale of their concessions. Similar advice was provided at other information sessions.

2.27 Stakeholders interviewed by the ANAO disclosed a range of sentiments regarding the advice that DAFF provided. Some found it very helpful and others felt that it did not adequately address their concerns. In its audit of the buyback program, Ernst & Young found that clearer guidance could have been provided to fishers regarding how the department was going to assess value for money.

Business Advice Assistance

2.28 Eligible concession holders could apply for BAA irrespective of whether or not a tender was submitted. Up to \$1500 could be claimed for professional advice, such as, business planning, accounting or legal advice. An application for BAA had to be accompanied by an itemised tax invoice supporting the claim. In total, DAFF paid approximately \$545 000 to 395 BAA recipients. From its sample of 84 tenders, the ANAO reviewed

⁴⁰ The former Minister for Fisheries, Forestry and Conservation formally closed the Bass Strait Central Zone Scallop Fishery (BSCZSF) from 2006 for a minimum of three years.

five BAA applications. All recipients were eligible to receive a payment and had provided a tax invoice to substantiate their claim. DAFF monitored applications to confirm that tenderers did not claim more than the \$1500 allowed.

2.29 Stakeholders commented that assistance to access business advice was helpful. However, final information needed by tenderers regarding tax treatment and the MPA coverage was not available until just before tenders were due in round one. The delay in providing this information reduced the period for potential tenderers to fully consider their options under the buyback.

Assisting stakeholders to better understand the process before round two

2.30 Following the announcement of successful and unsuccessful tenders in round one, DAFF received many queries. Unsuccessful tenderers were anxious to discover the concession prices paid by DAFF in round one to help understand why they had been unsuccessful. Unsuccessful tenderers were offered a 'debrief' to explain the process followed in round one. The debriefs advised tenderers that:

- the rules set out in the RFT and in the evaluation plan were followed;
- the process aimed to identify the greatest number of surrenders in each target fishery that could be achieved at best value for money within the defined pool of funds available;
- nominal targets and funding allocations had been set;
- the preferences and considerations stated in the RFT had been applied;
- no weighting was given to information, such as indications from fishers that they intended to leave the fishery;
- each tender was compared with other tenders that included the same types of fishing concessions and the various combinations of other fishing concessions that were offered; and
- a computer model assisted with the assessment of tenders.

2.31 Unsuccessful tenderers were also advised that, when considering how a tender compared to the other tenders submitted, it was particularly important to note that it was the total price asked and the total package of concessions offered that was assessed by the department. However, the advice

did not explain that the computer model had distributed the total price asked across the concessions offered in a manner that may bear little resemblance to what had been asked for each concession in the tender.⁴¹

2.32 The results were not transparent to tenderers. To reconcile why they had been unsuccessful, tenderers had compared the prices they had asked for individual concessions with the prices asked by successful tenderers for similar concessions. As this information was requested in the RFT in round one, they assumed it played some part in the evaluation process. However, as previously discussed, each tenderer received the total price asked for their tender and not necessarily the price asked for the individual concessions offered. Appendix Three provides an example of three successful tenderers in round one who offered BSCZSF packages at prices in excess of \$200 000 per package. However, the price the algorithm actually 'paid' per package was much lower with prices ranging from zero dollars (for three packages) to \$80 650 (for one package). This outcome was possible because the algorithm was able to distribute the total price asked across the other concessions offered in the tender.

2.33 DAFF did not release price information publicly prior to round two, although it had advised in the RFT that it may do so. DAFF advised the then Minister that the department could not announce the average prices paid for successful tenders in round one as this would, in many cases, be misleading. DAFF also held some concerns regarding privacy if prices were released.⁴² Instead, to convey the relative values of the target fisheries, DAFF released a table and chart showing the real Gross Value of Production (GVP) figures for the four target fisheries between 1995–96 and 2005–06.

2.34 Fishers from the BSCZSF reacted strongly to the GVP information, raising concerns with the former Minister for Agriculture, Fisheries and Forestry as well as the Prime Minister's office. In their view, this information did not reflect the potential future value of their concessions if the outcomes expected from the buyback program—sustainable fish stocks and a more profitable future for fisheries—were achieved.

⁴¹ The evaluation process is discussed in more detail in Chapter Three.

⁴² The 'five boat rule' is an informal practice by AFMA and DAFF with the support of the fishing industry. AFMA does not release data where five boats or less are involved.

Conclusion

2.35 The department consulted widely in developing the buyback program. Overall, its communication strategy for raising awareness and distributing information to the industry and potential tenderers was generally effective. The RFT and its addenda provided potential tenderers with clear instructions and a reasonable basis for understanding the legal responsibilities of submitting a tender.

2.36 Potential tenderers actively sought information from DAFF regarding the buyback program and DAFF provided many avenues to obtain advice and assistance. However, for some potential tenderers, their key questions, which centred on the pricing of concessions and how the tenders would be evaluated, remained unanswered. These concerns could have been more satisfactorily addressed if the department had explained in more detail how it would be evaluating tenders. Tenderers, and particularly unsuccessful tenderers, would have had a better understanding of the tender evaluation process if DAFF had:

- explained that an algorithm would be used;
- provided the reasons for this approach; and
- offered some insight as to how the algorithm would evaluate the tenders based on the total tender price and not the prices asked for individual concessions.

2.37 Recognising that the RFT was released later than initially anticipated, there would have been merit in the department finalising key aspects of its evaluation approach, such as using the algorithm, before the RFT was released. Alternatively, this information could have been released to potential tenderers as it became available and certainly before the results were known. Although DAFF was in a position, going into round two, to advise potential tenderers of this information, it did not.

2.38 Requiring tenderers in round one to provide prices for each concession tendered created an expectation that individual concession prices would play a part in the evaluation process. Despite DAFF's debrief to unsuccessful tenderers advising that it was the total tender price that the evaluation decision was based on, the lack of transparency in the results made it difficult for some unsuccessful tenderers to reconcile why they had not been successful when comparing tenders. DAFF had told potential tenderers that it would not necessarily accept the lowest priced tenders. However, from the perspective of

some tenderers, concessions they offered represented better value for money than those accepted, particularly when the price asked for a similar concession was considerably less. DAFF's communication strategy would have been more effective if the expectations of stakeholders had been better understood and addressed through the information provided.

3. Evaluating tenders

This chapter examines the development and implementation of the evaluation approach and methodology used to evaluate the tenders.

Introduction

3.1 DAFF received a total of 875 tenders across two rounds of the buyback program—551 tenders in round one and 324 tenders in round two. The evaluation process was to identify those tenders that represented the best value for money. For the buyback, DAFF defined value for money as the maximum number of concessions that could be purchased with the available funding.

3.2 The evaluation panel was to oversee the evaluation process and develop an evaluation plan that outlined the evaluation approach and methodology. Tenders would be screened by DAFF and eligible tenders evaluated by a mathematical software program (the algorithm), which applied the steps and processes outlined in the evaluation methodology. The results were considered by the evaluation panel and successful tenders recommended to the decision maker.

3.3 The ANAO reviewed the tender evaluation process including the development of the evaluation approach, plan and methodology. Lessons learned from the process that may be applicable to future evaluations are also discussed.

Developing the evaluation approach

3.4 In 2005, the then Government reviewed a submission for structural adjustment in Commonwealth fisheries and agreed that a group of Ministers⁴³ should further consider the scope of the package. The subsequent buyback program's scope and total budget, which was capped at \$149.5 million, was agreed by the then acting Prime Minister in November 2005. DAFF was advised by Treasury of the funding allocated to buyback licences in the targeted fisheries and those licences affected by the locations of the new MPAs.

⁴³ The group of former Ministers included: the Treasurer; the Minister for Finance and Administration; the Minister for Transport and Regional Services; the Minister for the Environment and Heritage; the Minister for Agriculture, Fisheries and Forestry; and the Minister for Fisheries, Forestry and Conservation.

Evaluation plan

3.5 The evaluation panel developed the evaluation plan for each round with advice from the probity advisor and ABARE. The plan documented the evaluation process and methodology. Probity requirements, including the management of potential conflicts of interest, and the roles and responsibilities of DAFF staff and the evaluation panel were also specified.

3.6 The evaluation process was divided into three stages with tenders:

- screened by DAFF to confirm the eligibility of both the tenderer and the concession(s) that were offered and to check that the tender had been completed correctly;
- evaluated by the panel using the algorithm to identify successful and unsuccessful tenders; and
- recommended in an evaluation report prepared by the panel for consideration by the decision maker.

3.7 Each panel member signed the plan to indicate that they had read and understood it and confirmed that they had no potential conflicts of interest with the process. The plan was approved by the decision maker and the 'reserve' decision maker. The then Minister was briefed orally on the plan and a copy was later provided for information.

Evaluation methodology

3.8 The methodology documented the number of fishing concessions that DAFF sought to purchase in each target fishery (reduction targets) and the budgets available to achieve each target. DAFF advised that the budget allocations for the SESSF, ETBF and BSCZSF reflected its initial cost estimates. However, as the NPF had not been identified as a target fishery by DAFF in the initial submission it is not clear who determined the NPF budget. DAFF was also unable to provide the calculations to support the budget allocations. Although the overall budget did not change, DAFF revised the initial budget allocations that had been approved by the then Minister for Finance and Administration to reflect the:

- redistribution of the monies allocated for buying concessions affected by the new MPAs;
- allocation of \$6 million to purchase concessions in non-target fisheries;

- increase of the BSCZSF budget from \$3.5 million to \$6 million (71 per cent increase); and
- increase of the budgets for the NPF, SESSF and ETBF proportionally with the remaining funds.

3.9 The initial and revised budgets and the reduction targets are shown in Table 3.1.

Table 3.1

Initial and revised budget allocation and corresponding reduction targets

Fishery	Reduction target (per cent of all concessions)	Initial Budget allocation (\$m)	Revised Budget allocation (\$m)
Northern Prawn Fishery (NPF)	25 per cent	53.7	57.2
Southern and Eastern Scalefish and Shark Fishery (SESSF)	Approximately 50 per cent	43.2	45.1
Eastern Tuna and Billfish Fishery (ETBF)	30 per cent	35.7	34.3
Bass Strait Central Zone Scallop Fishery (BSCZSF)	80 per cent	3.5	6.0
Marine Protected Areas	n/a	12.5	0
Non-target fisheries	n/a	0	6.0
Administration costs	n/a	0.9	0.9
TOTAL FUNDING AVAILABLE			149.5

Source: ANAO analysis of DAFF data

3.10 DAFF advised that revisions to the budget were made in consultation with the then Minister. However, the department was unable to provide documentation to support the decisions to give additional funds to the BSCZSF or to redistribute the MPA allocation. Further, the calculations underpinning the initial budget and the quantum of funds provided to the non-target fisheries and the BSCZSF in the revised budget could also not be provided. The revised budget was signed off as part of the evaluation plan.

Reduction targets

3.11 The reduction targets set for the ETBF, SESSF and BSCZSF reflected the reduction in fishing capacity considered necessary for fish stocks to support a sustainable and profitable industry. The Total Allowable Catch (TAC) for these fisheries had already been reduced for 2006. In the case of the BSCZSF, the

fishery had been formally closed for a minimum of three years from 2006. DAFF changed the reduction target for the BCSZSF from the 100 per cent of the concessions initially proposed to 80 per cent.

3.12 The NPF's reduction target was documented in the RFT. The Government was to purchase, providing it achieved value for money, a minimum number of concessions⁴⁴ in exchange for the fishery adopting a new management regime from 2008.⁴⁵ This target represented the reduction in concessions considered adequate to reduce the ongoing risk of overfishing.

Budgets and reduction targets in round two

3.13 Reduction targets for ETBF and SESSF were generally met in round one and the remaining budgets in these fisheries were re-allocated into the 'non-target' fisheries budget for the second round. Additional ETBF and SESSF concessions could be purchased under the rules for purchasing concessions from non-target fisheries.

3.14 Reduction targets set for the BCSZSF and the NPF were not met in round one and these fisheries became the 'target' fisheries in round two. The remaining round one budgets for these two fisheries were available to purchase concessions in round two. The NPF reduction target did not change but DAFF reduced the BCSZSF's reduction target from 80 per cent to 75 per cent. Reducing the target increased the average price⁴⁶ the algorithm could pay for each BCSZSF package in round two from \$39 000 to \$55 000.

Indicative prices for round two

3.15 DAFF incorporated 'indicative' prices—the maximum price that DAFF was prepared to pay for each type of concession—into the evaluation methodology for round two. The 'indicative' price would be applied if funds remained following the algorithm being run. With the exception of the 'indicative' price set for BCSZSF packages, indicative prices were based on information collected from successful tenders in round one and were generally

⁴⁴ The government was to purchase a minimum of 19 active NPF Boat statutory fishing rights (SFR) and 12 800 NPF Gear SFRs.

⁴⁵ The NPF fishery was to move from a management system of input controls to a system of output controls. Under an input controlled system the number of boats and the equipment that can be used to catch fish are controlled but the fishers' catch is not restricted in terms of quantity.

⁴⁶ The average price was implicit in the algorithm's calculations.

the higher of either the average price asked per concession⁴⁷ or the average price 'paid' by the algorithm.

3.16 For each BSCZSF package, DAFF set an indicative price of \$110 000, which was approximately half the average price asked for successful BSCZSF packages in round one (this was \$228 000). The average price 'paid' by the algorithm was not documented in the evaluation methodology.⁴⁸ The ANAO calculated this price to be approximately \$23 000 based on the average price 'paid' by the algorithm across the five successful BSCZSF tenders in round one. DAFF was unable to provide documentation to support the rationale for setting the indicative price for the BSCZSF packages. The then Minister agreed with this indicative price and was aware that potential tenderers would not be advised of the price.

Using an algorithm to evaluate tenders

3.17 ABARE translated the evaluation methodology into a series of mathematical programs (the algorithm) that could be solved using the Generalised Algebraic Modelling System; a system with which ABARE was familiar.⁴⁹ Refining the algorithm was an iterative process, which took place between May and September 2006.

3.18 The ANAO considers that an algorithm was a practical way to evaluate the tenders. Apart from the likelihood of receiving a large number of tenders, the evaluation process was complex because:

- an extensive list of preferences and considerations had to be accommodated;
- tenders had to be accepted in their entirety and could include concessions from more than one fishery;
- tenderers could submit an 'alternative' tender, which would be evaluated if the primary tender was not identified in the group of tenders that offered value for money; and

⁴⁷ In round one, tenderers were asked to provide a price per concession tendered as well as a total tender price.

⁴⁸ Within the context of the buyback program, the price 'paid' is the value allocated by the algorithm to each concession offered within a tender.

⁴⁹ A summary of how the algorithm worked is provided in Appendix Two.

- tenders could be 'linked' to other tenders where business arrangements, such as a partnership, made it necessary for the tenders to be accepted together.

3.19 By using an algorithm, DAFF did not need to identify a maximum price that it would be prepared to pay for each concession type. Although market information had been sought through ABARE, AFMA and external sources, little knowledge of the prices for fishing concessions was obtained. Further, to be able to set a reasonable maximum price, factors including estimates of fisheries' net present values of future commercial returns would need to be taken into account. DAFF advised that it used the first evaluation process as a mechanism to 'discover' the prices in the market. DAFF also advised that it assessed the risks associated with using the algorithm. However, it did not document this assessment or any strategies to mitigate the identified risks.

The 'fisheries specific' evaluation approach

3.20 The methodology outlined two evaluation approaches that could be used to maximise the number of concessions purchased within the budgets available: the 'global' approach and the 'fisheries specific' approach. The 'global' approach would be applied if all reduction targets could be met within one round and the 'fisheries specific' approach would allow targets to be met across more than one round. As the reduction targets could not be met in one round the 'fisheries specific' approach was used.

3.21 In round one, the 'fisheries specific' approach sought to achieve the reduction targets using only a nominal funding amount (80 per cent of each budget). The remaining budget (20 per cent) was available to pay the \$25 000 boat scrapping incentive payment⁵⁰ and/or purchase additional tenders using the 10 per cent method if a reduction target had been met within the nominal funding amount.

3.22 The 10 per cent method meant that additional concessions could be purchased at an effective price of up to 10 per cent more than the highest price already paid by the algorithm to achieve the reduction target. Conversely, if the reduction target could not be met in a fishery in round one, a pro-rata

⁵⁰ An incentive payment was available to fishers who offered to scrap a boat if their tender was successful. To receive a payment, satisfactory evidence (such as a receipt from a professional boat scrapper) had to be provided to DAFF to demonstrate that scrapping had occurred.

reduction method was applied. Under this method, the budget available was reduced in proportion with the percentage of the reduction target that could be achieved.

3.23 In round two, 100 per cent of the budget allocation remaining for each target fishery and the non-target fisheries was available to purchase concessions and to cover the cost of the boat scrapping incentives. The algorithm would first try to achieve the fisheries targets within the budget available (applying the average price). If unsuccessful, the algorithm would then identify any tenders that could be purchased using the indicative prices. Unallocated funds were to be applied in a 'final run' across all fisheries. The maximum price paid in this event could exceed the indicative price. However, the methodology required that the effective prices paid were as close to the indicative price (as a percentage) as possible.

Conclusion

3.24 The evaluation plan was comprehensive and supported the systematic evaluation of tenders. The methodology documented the reduction targets and the alternate approaches for achieving those targets within the budget available. However, DAFF was unable to provide documentation to support the decisions surrounding, and revisions made to, the budget allocations and the setting of the indicative price for BSCZSF packages in round two.

3.25 The algorithm was a practical and an administratively cost-effective way for the department to evaluate a large number of tenders against a complex set of requirements. It also removed the need for the department to determine an explicit maximum price that the government was prepared to pay for concessions.

Developing the algorithm

3.26 Developing the algorithm was an iterative process, which involved ABARE:

- analysing synthetic data generated using random prices to help understand the operation of the evaluation methodology;

- identifying inconsistencies with the data set⁵¹ and refining data inputs for the algorithm; and
- running the algorithm (in both rounds) with test data received from DAFF before generating the results with the actual data.

3.27 DAFF was unable to provide documentation to support the tests undertaken or any revisions made as a result of this testing. Meeting summaries kept by the evaluation panel do not document any discussions with ABARE during the development of the algorithm. Also, neither the evaluation panel or the decision maker signed off the algorithm before it was implemented to confirm that they considered it to be an accurate representation of the evaluation methodology.

How the algorithm evaluated tenders

3.28 To evaluate the tenders, the algorithm needed the:

- number and types of concessions offered in each tender;
- total price asked for each tender;
- budget available to purchase concessions; and
- number of concessions the department wished to purchase.

3.29 DAFF recorded the concessions tendered and the price asked on a database and provided ABARE with this data. To maintain the integrity of the process, the identities of both the tenderers and their tender(s) were masked with a four digit code. DAFF also quality checked the data before it was provided to ABARE. Using this information, the algorithm would, if allowed to run indefinitely, continue to find bundles of tenders that could be purchased with the budget available until the 'optimal' bundle was found. The optimal bundle represented the maximum number of concessions that could be purchased with the funds available.

3.30 To find the optimal bundle, the algorithm assigned an 'effective' price to each concession. If the tender contained one concession, there was only one option, the effective price would equal the total price asked. However, if multiple concessions were offered, the algorithm could assign multiple

⁵¹ The data set refers to the data that was recorded from each tender by DAFF and provided to ABARE.

combinations of effective prices that equalled the total price asked. Appendix Three illustrates how the algorithm distributed the total prices asked across the concessions offered in three successful tenders. Each tenderer received the total tender price they had asked but the effective prices 'paid' by the algorithm for each individual concession in the tender were very different to the individual prices that had been asked.

3.31 The algorithm had to maintain an implicit average price for the concessions purchased to enable it to reach the reduction target for each fishery within the budget allowed. The implicit average price also restricted the potential for the algorithm to assign extreme effective prices. In non-target fisheries where a reduction target was not set, effective prices were not constrained in this way. ABARE advised that standard mathematical methods were used to check that the variance of effective prices was minimal.

Scenario testing of the algorithm

3.32 Ernst & Young⁵² examined the extent to which the algorithm, as implemented by the department, complied with the evaluation procedures stated in the evaluation plan and methodology. The algorithm was reviewed using a 'black box' testing process, similar to that used in software development. Scenarios were used to test particular aspects of the specifications contained within the RFT and the evaluation methodology. Ernst & Young did not identify any inconsistencies in the application of the algorithm or with the rules set out in the evaluation plan and methodology. The ANAO's review of the algorithm did not find evidence to the contrary.

3.33 The 10 per cent method was also reviewed as its application required an ABARE officer to manually intervene in the process by adjusting the code to instruct the algorithm what to do next. Although the adjustments reflected the evaluation methodology, testing undertaken as part of the audit identified that there was limited documentation available to support these manual steps. An internal audit conducted by DAFF also noted that there was limited documentation to support the manual steps taken. When the manual steps were replicated by Ernst & Young, no inconsistencies were found. However,

⁵² Ernst & Young, *Audit of Business Exit Assistance—Voluntary Surrender of Fishing Concessions (licence buyback)*, 2 September 2008.

this did not necessarily mean that the manual processes carried out in the actual evaluations were performed similarly.

Quality review of the algorithm

3.34 There were no formal quality review processes in place to provide assurance to the evaluation panel and decision maker that the algorithm was operating correctly. DAFF advised that the need to test the algorithm was discussed as was the timeline and the contingency plans. However, these discussions were not documented.

3.35 DAFF considered that obtaining third party advice to validate the design of the algorithm was unnecessary and impractical. The algorithm was generated using off-the-shelf software, the questions asked by the methodology corresponded with standard mathematical programming problems and the ABARE officers involved had used the software previously. Also, a third-party review would have cost time and money and potentially alerted industry of evaluation details that had not been released publicly. The ANAO considers that it would have been reasonable and would have addressed DAFF's confidentiality concerns, to have another ABARE officer quality review the processes for developing the algorithm. The ANAO understands that ABARE had, as a contingency measure, a second officer available who could run the algorithm.

Conclusion

3.36 Using an algorithm as a tool to evaluate and select the tenders was an innovative and practical approach to managing a complex evaluation process. Although the need to test the algorithm had been discussed, there were no formal quality review processes in place even though introducing manual processes as part of the 10 per cent method increased the potential for error. There would have been merit in the evaluation panel and/or the decision maker signing off the algorithm to confirm that adequate testing had been undertaken and that there was confidence that it would perform as expected.

3.37 A consequence of using the algorithm was that the evaluation process was not transparent. Although the total price asked for the tender was always paid, it was not possible to compare the prices offered for concessions as these were not necessarily the prices 'paid' by the algorithm.

Process for evaluating tenders

3.38 The evaluation process is summarised in Figure 3.1. The probity advisor attended the opening of the first tenders in each round. Sixteen tenders, across both rounds, were excluded from further consideration because they were received late.⁵³ A checklist was used to manage the tender screening process. The concessions offered and the name of the concession holder was verified by AFMA. DAFF checked that the tender offered eligible concessions and the tenderer was also eligible. DAFF also confirmed that the tender was complete and correct.

3.39 In total, 38 tenders⁵⁴ were excluded from further evaluation. Of these:

- 15 tenders had breached the tender rules;
- eight tenders had been withdrawn by the tenderer prior to closing time;
- five tenderers did not hold the concessions offered;
- five tenderers offered ineligible concessions; and
- five tenders were excluded because, for example, corrections requested by DAFF had not been addressed within the timeframe allowed.

3.40 From the total of 875 tenders received, in excess of 400 tenders contained errors or required clarification.⁵⁵ For example, tenderers had provided incorrect concession details or offered ineligible concessions. The evaluation plan allowed corrections to be made to tenders, and DAFF sought guidance from the panel, the probity advisor and the legal advisor regarding the process for managing corrections. Each tenderer was contacted and advised of the corrections necessary if their tender was to be evaluated.

3.41 Correcting these errors extended the six week timeframe allowed for evaluating tenders in round one to a total of 11 weeks. As previously noted, DAFF amended the round two RFT to clarify its information requirements. In round two, 37 tenders required corrections and there was no impact on the evaluation timeframe.

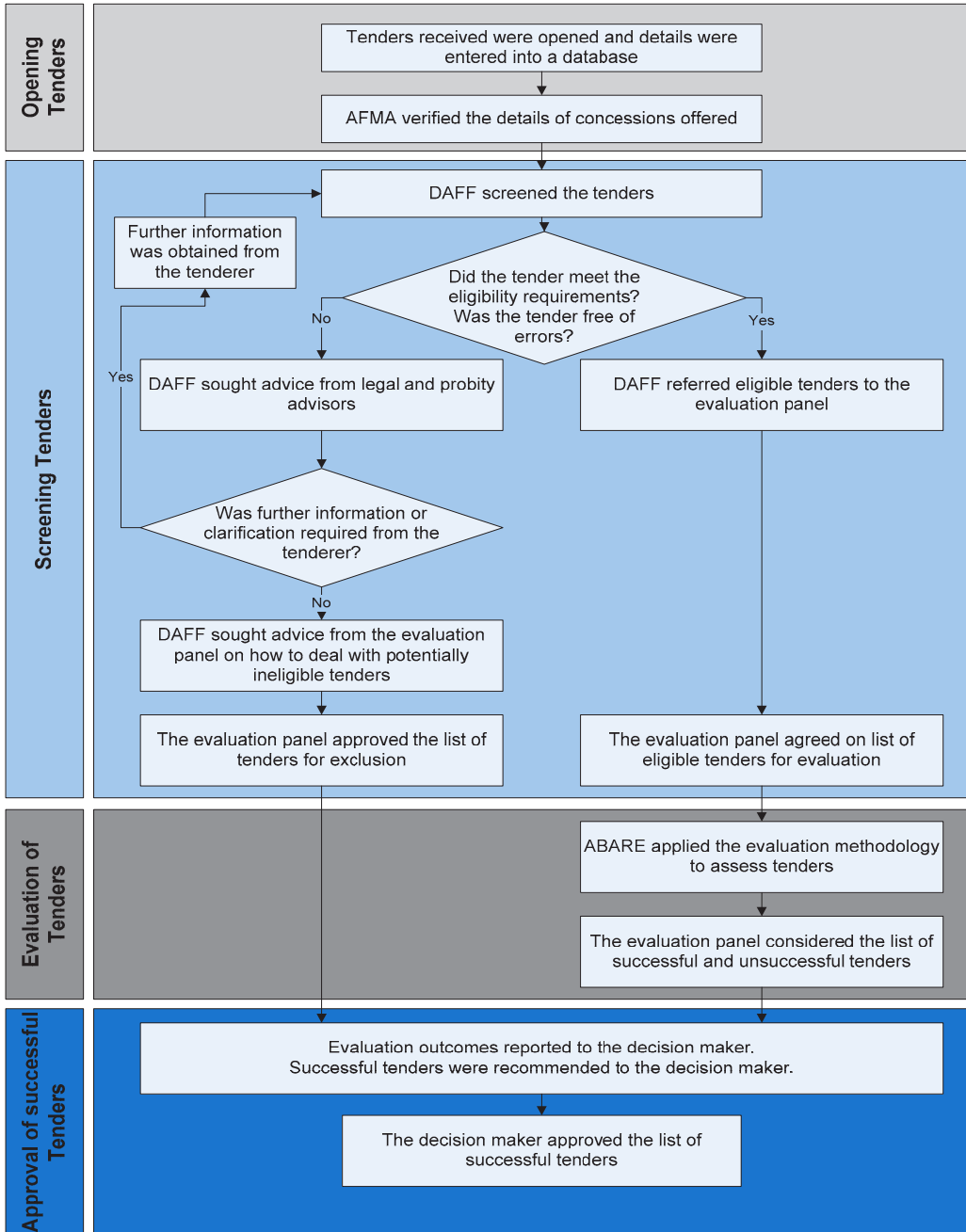
⁵³ Nine tenders were received late in round one and seven tenders were received late in round two.

⁵⁴ The panel excluded 27 tenders in round one and 11 tenders in round two.

⁵⁵ From the ANAO's sample, 54 of the 84 tenders reviewed contained errors or required clarification.

Figure 3.1

Evaluation process



Source: ANAO analysis of DAFF data

3.42 DAFF effectively screened the tenders received and implemented processes to manage the extensive errors in the tenders. The high error rate had a significant impact on the timeframe for evaluating tenders in round one.

Applying the algorithm

3.43 To determine the optimal bundle of tenders in round one, ABARE:

- evaluated all tenders offering NPF concessions or only non-target fishery concessions⁵⁶;
- evaluated all other tenders simultaneously;
- applied the 10 per cent method to the ETBF and the SESSF where targets were met; and
- applied the pro-rata reduction method to the NPF and the BSCZSF where targets could not be met.

3.44 ABARE advised the panel of the outcomes generated by the algorithm, including which targets could be met and where the 10 per cent method and the pro-rata method had been applied. The panel did not have the discretion to deviate from the evaluation methodology. For example, the panel could not assess the benefits of purchasing additional concessions where the targets had already been met (in the ETBF and the SESSF) prior to applying the 10 per cent method in round one. It was not clear if the more than \$14.8 million expended, including almost \$14 million in one fishery (the ETBF), using this method in round one could have been better spent purchasing concessions in the other targeted fisheries or in round two.

3.45 When the 'fisheries specific' approach was implemented it was accepted that, in all likelihood, a second round would be necessary to achieve the reduction targets in all fisheries. The ANAO recognises that there was a risk that tenders not selected in round one may not have been offered again in round two. However, some assessment of the benefits to be gained and whether these tenders offered value for money would have been worthwhile prior to their purchase. To maintain the integrity of the evaluation process, pre-determined 'stop-go' points and the options available to the panel could be documented in the evaluation plan. Any decisions and the rationale for the

⁵⁶ These concessions could be evaluated separately as they were not offered in conjunction with any other concession types and there was a specific budget allocation for each.

decisions would be recorded in the minutes of the evaluation panel's meetings and the evaluation report.

3.46 In round two, ABARE evaluated all tenders offering NPF concessions or only non-target fishery concessions and then evaluated all other tenders simultaneously. Following this process, approximately \$13 million remained unspent. This was used for a 'final run' across all fisheries to identify further tenders for purchase. Following the 'final run', \$6296 remained unspent from the total budget.

Consideration of the results by the panel

3.47 Tenders could only be ranked by the algorithm as either 'selected' or 'not selected' following the evaluation process. The selections made by the algorithm could not be compared or interrogated easily by the panel. Contrary to the probity arrangements put in place for the tender evaluation, minutes were not kept for the meeting after the panel had received the evaluation results from round one. DAFF advised that the outcomes of the panel's meeting (held over two days) were captured in the evaluation report. However, the evaluation report did not identify what advice was provided or the documentation the panel had considered or discussed in these meetings to give it assurance that the results could be recommended to the decision maker.

3.48 The members of the evaluation panel advised that, although not part of the formal process, they undertook 'spot checks' to confirm that the results of single concession tenders were 'as expected' and for the multiple concession tenders, the results 'looked reasonable'. The chair of the evaluation panel advised that queries were raised and satisfactory answers provided by the DAFF contact officer. However, there was no documentation to support these checks and the evaluation report does not record any checking processes or the queries that were raised.

3.49 The panel met 11 times in round one. Unsigned meeting summaries were available for 10 meetings. Panel members were asked if any new potential conflicts of interest had arisen in only two of the meetings held and none were recorded. In round two, meeting summaries were prepared for each of the four meetings held and panel members were asked to declare new potential conflicts of interest at each meeting. The final meeting summary noted that ABARE briefed the panel but the content of the briefing was not recorded.

What went to the decision maker

3.50 For both rounds, the panel prepared an evaluation report that informed the decision maker of the process followed and provided a summary of the evaluation results. For each fishery, the reports outlined the process followed to achieve the result, the number of concessions offered, number of concessions purchased, total amount spent (based on the effective prices paid) by the algorithm and, in round one, the funds remaining. Attached to each report was the:

- list of tender numbers that were recommended for acceptance;
- list of tender numbers that had been excluded by the panel from further evaluation and the reason why each had been excluded;
- probity advisor's report; and
- panel's meeting summaries.

3.51 Both evaluation reports were prepared in accordance with the evaluation plan and were reviewed by the probity advisor. The decision maker was also provided with the evaluation plan, the RFT and Frequently Asked Question documents. DAFF advised that the decision maker was also briefed on the process by the evaluation panel's Chair and on the results of the algorithm by ABARE. However, these briefings were not documented. The decision maker advised the ANAO that he had been provided with sufficient information to understand the process and to undertake his responsibilities. Despite the lack of transparency in the recommendations generated by the algorithm (as illustrated in Table 3.2), the decision maker had confidence in them because of ABARE's experience with running similar programs and the tests undertaken to develop the algorithm. In both rounds, the decision maker agreed to the selections made by the algorithm and recommended by the evaluation panel and signed the Agreements to purchase those tenders.

Table 3.2**Extract of the list of tenders recommended to the decision maker**

Number	Tender number	Total offer price (\$)
1	1023	480 000
2	1027	525 000
3	1034	2 157 300
4	1040	575 000
5	1041	1 841 000

Source: ANAO analysis of DAFF information

Data integrity checking

Final data check prior to consideration by the decision maker

3.52 In each round, following the selection of successful and unsuccessful tenders by the algorithm, DAFF checked the data in the tenders with the data recorded on the database (and provided to ABARE). No anomalies were found in round one. Following the panel's agreement with the results of the algorithm in round two, DAFF identified a data error, where the total price recorded in DAFF's database for a tender identified for purchase had been less than the actual price asked. The algorithm was re-run (using an amended dataset) before the results were presented to the decision maker. The tender involved and one other tender were no longer included in the optimal bundle of tenders and were replaced by two additional tenders.

Checks conducted after the decision maker selected tenders

3.53 Running the algorithm was time consuming. Further, managing the errors identified in the round one screening process reduced the time available to run the algorithm. To help the algorithm run more quickly, ABARE adjusted the algorithm's settings. It advised that no significant variation was observed when it re-ran the algorithm, which suggested that the optimal bundle had been found. The adjustment to the algorithm's settings and the potential risk this action created was not documented and the panel and the decision maker were not advised during the evaluation process.

3.54 In January 2007, after both rounds had been finalised and the concessions purchased, DAFF conducted a check of the evaluation results. This

check identified that the optimal bundle had not been found in round one because of the adjustment made to the algorithm's settings. ABARE re-ran the algorithm at the correct settings and identified three tenders that should have been selected and one tender that had been purchased but should not have been selected. Of the three additional tenders that were identified as successful:

- one additional tender was purchased for \$50 000;
- one tenderer had been successful in the second round at a lower price and was paid the difference (\$19 000); and
- one tenderer had sold the concession involved privately. The sale price is unknown therefore it was not clear if the concession holder involved was disadvantaged.

Was value for money achieved?

3.55 For the purpose of the buyback program, DAFF defined value for money as the achievement of the greatest number of surrenders, subject to the preferences and considerations identified, within the limited pool of funds available. That is, the government sought a cost-effective outcome and, to achieve this, a mathematical software-based optimisation program (the algorithm) was used. The department purchased all available tenders that the algorithm identified as value for money within the following parameters:

- all tenders identified within the budget allowed, the preferences and considerations set and the pro-rata reduction method;
- all additional tenders identified using the 10 per cent method in round one; and
- all additional tenders identified within the indicative prices set in round two until no further tenders could be purchased within the funds remaining.

3.56 However, as discussed in paragraph 3.54, an additional tender that was not value for money was also purchased for \$50 000 because the algorithm's settings were adjusted in round one.⁵⁷ Also, under the 10 per cent method, DAFF purchased additional concessions in fisheries where the targeted

⁵⁷ DAFF offset the purchase of this additional tender with an underspend elsewhere in the package.

number of concessions had already been purchased. For example, in the ETBF, almost \$14 million was spent by the department to purchase additional concessions in round one. Whether the department achieved value for money for these concessions is uncertain. There was no analysis undertaken to determine whether purchasing these concessions offered better value for money than purchasing concessions in the other target fisheries or in round two.

Conclusion

3.57 Within the parameters set by the evaluation methodology, the department purchased the tenders identified by the algorithm as offering value for money. However, one additional tender was purchased that was not considered value for money and it was uncertain whether value for money was achieved by purchasing the additional concessions through the 10 per cent method.

3.58 Despite the assurances provided to the panel and the decision maker, there were errors found in the results of the algorithm. Further, the adjustment ABARE made to allow the algorithm to run more quickly due to time pressures in round one was not documented or advised to the evaluation panel or decision maker. Manual processes and the potential for errors in the data and algorithm's settings reinforce the importance of incorporating quality review processes into the development of the algorithm and the tender evaluation process. These could include: reviewing testing plans and results; allowing adequate time for the program to run; ensuring parameters are set correctly; and the results are checked before they are approved. Seeking a documented signoff on the algorithm's key settings and other key processes would also provide assurance to the decision maker.

Lessons for the future

3.59 The buyback program was complex and selecting tenders through normal procurement evaluation processes would have been extremely resource intensive and time consuming. DAFF's use of an algorithm was an innovative and practical way of approaching this evaluation. However, the ANAO considers that there are some lessons to be learned from the buyback program that could be applied to any future tender evaluation process adopting a similar methodology.

3.60 DAFF advised that it assessed the risks associated with using an algorithm. However this assessment or any risk mitigation strategies that DAFF considered, were not documented. Areas of risk that need to be considered include:

- quality review processes to support the development and running of the algorithm;
- transparency of the evaluation process; and
- management of the expectations of key stakeholders.

3.61 The level of review and assurance required should be commensurate with the level of risk identified and managed accordingly. ABARE advised that to provide a high level of assurance that the results produced by the algorithm were correct would have required running a 'parallel process'. That is, the tenders are also evaluated using a second algorithm and the results of the two are compared. A lower level of assurance could be obtained through a 'reality' check of the prices that had been asked for tenders with what the algorithm paid, supported by well defined quality review processes for the algorithm. In particular, a documented testing regime in the development phase and a review of the manual intervention processes. These checks and review processes should be formalised in the evaluation plan and the results appropriately documented.

3.62 Using the algorithm also reduced the transparency of the evaluation process. As previously discussed in Chapter Two, unsuccessful tenderers were only advised (as part of a requested debrief) that a computer model had evaluated and selected the successful tenders. The department's communication strategy needed to better understand and manage the expectations of key stakeholders. For example, by providing information explaining the:

- decision to use a mathematical software program, the rationale for this approach and ABARE's experience with these models;
- software to be used and how it would select the greatest number of concessions within the funding available;
- implications of this approach for tenderers. For example, not being able to compare concession prices as only the total price asked was used; and

- quality review process that would provide confidence in the results as they are not transparent to tenderers.

3.63 If a 10 per cent method is to be applied, there would be merit in allowing the evaluation panel the discretion to determine whether value for money will be achieved overall before proceeding with the approach. The integrity of the evaluation process could still be maintained by clearly outlining in the evaluation plan the circumstances under which the panel may intervene and appropriately documenting any decisions or outcomes that may result.

3.64 The ANAO considers that the following improvements could be made to strengthen the evaluation process and provide greater assurance for the outcome if the department should undertake a similar evaluation process:

- assess and document the risks associated with using an algorithm, such as the transparency of the approach selected to stakeholders, and develop appropriate mitigation strategies to manage these risks;
- develop and implement quality assurance processes surrounding the development and running of the algorithm and the results generated;
- incorporate in any evaluation methodology and plan, the capacity for the evaluation panel to intercede at appropriate decision points in the process; and
- document key discussions, briefings and decisions.

Recommendation No.1

3.65 To enhance the transparency and accountability of any future evaluation process when evaluation tools such as an algorithm are used, the ANAO recommends that the Department of Agriculture, Fisheries and Forestry:

- (a) assess and document the risks associated with using an algorithm and develop appropriate mitigation strategies;
- (b) develop and implement quality assurance processes surrounding the development and running of the algorithm and the results generated; and

- (c) incorporate in any evaluation methodology and plan, the capacity for the evaluation panel to intercede at appropriate decision points in the process.

Department's response

3.66 Agreed. The department notes the ANAO's findings that the documentation surrounding the risks and quality assurance of the algorithm was limited. The department agrees that more rigorous documentation of the risks and application of thorough quality assurance, associated with the algorithm, will enhance the integrity of any future programs. The department also agrees that the capacity for the evaluation panel to intercede at appropriate decision points would aid future assessment processes, such as this. This recommendation will be taken into account in development any future probity frameworks for similar programs.

4. Finalising the buyback program

This chapter considers the process for making payments to successful tenderers and successful applicants to the SCA program. The information available to measure the extent to which the buyback has achieved its objectives is also reviewed.

Introduction

4.1 Following the approval of tenders by the decision maker, DAFF was responsible for making payments to successful tenderers and reporting on the results of the program. It also assessed and approved grants for the SCA program. The ANAO reviewed the process for making payments and DAFF's ongoing compliance monitoring program. The information available to measure the impact of the buyback program was also reviewed.

Results of the buyback

4.2 In total, more than 550 fishing concessions (approximately one-third of total concessions in Commonwealth fisheries) were purchased for approximately \$148.7 million. Prices paid for tenders ranged from \$6000 to \$9.6 million, across both rounds. Table 4.1 shows, for each round, the total budget and the number of tenders that were received by DAFF and accepted by the decision maker.

Table 4.1

Results from the evaluation of tenders

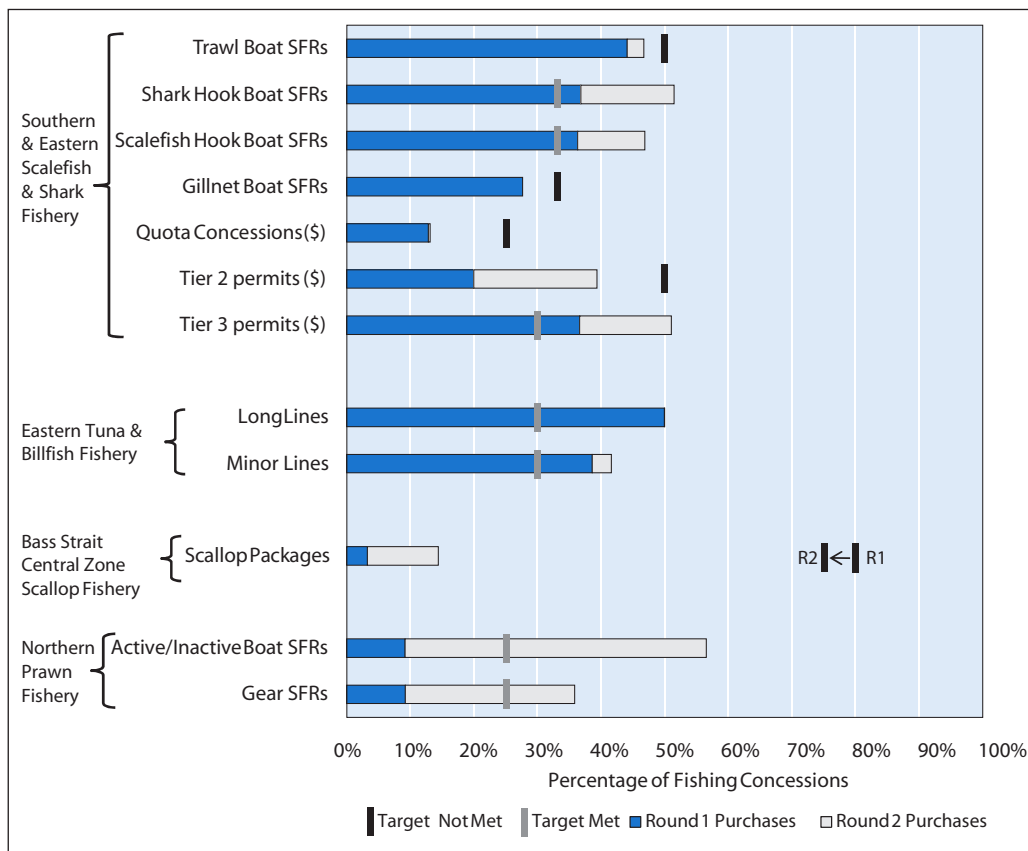
Round	Tenders received	Tenders accepted	Expenditure of budget (\$m)
Round One	551	199	89.3
Round Two	324	93	59.4
Total	875	292	148.7

Source: ANAO analysis of DAFF data

4.3 Overall, as shown in Figure 4.1, the reduction targets for the ETBF, SESSF and NPF were met but the BSCZSF target was not.

Figure 4.1

Results of buyback on a fishery by fishery basis



Note: The overall reduction target for the BSCZSF was reduced for round two.

Source: ANAO analysis of DAFF data

Managing payments

4.4 Successful tenderers were required to surrender the concessions purchased and DAFF used a checklist to ensure that all necessary conditions were met prior to payment. In the ANAO’s sample of 53 successful tenderers, payments totalling approximately \$58 million were made and no anomalies were identified.

Payments to eligible SCA applicants

4.5 Skippers and crew members applying for a single payment of \$5000 or \$3000 respectively under the SCA program were required to provide evidence of their employment—a payment summary, three recent pay advices or

Business Activity Statements, and two statutory declarations. The statutory declarations were to be made by:

- the applicant’s previous employer—declaring that the applicant’s employment had been terminated as a direct result of the employer being a successful tenderer in the buyback; and
- the applicant—declaring that:
 - they did not receive any financial or in-kind benefit from their employer’s successful tender and their job had been their main source of income; and
 - they would not work as a skipper or crew member on any fishing vessel for the employer or an associate of that employer referred to in the statutory declaration for the next five years.

4.6 The ANAO analysed a sample of ten payments (five skippers and five crew members) with a total value of \$40 000 and considered that DAFF had made payments to eligible grant applicants.

Monitoring compliance following the buyback

4.7 The implementation plan for the structural adjustment package identified the need to monitor the ongoing compliance of successful tenderers and recipients of SCA grant payments. DAFF developed compliance monitoring strategies for the buyback and the SCA program between April and May 2008.

4.8 Compliance with the legal agreements signed by successful tenderers does not allow fishers to apply for future concessions that relate to the surrendered concessions. DAFF has worked with AFMA to ensure successful ETBF tenderers complied with this requirement as ETBF permits are to be replaced by statutory fishing rights.

4.9 SCA grant recipients are not to work for the same employer within five years of receiving the payment. Of the 99 SCA recipients, DAFF has undertaken a random survey of 30 recipients to confirm that they were not working for the same employer. Of those surveyed, seven recipients did not

respond⁵⁸ and the remaining 23 recipients indicated that they had complied with the conditions. DAFF has advised that, although there is no need for further surveys, it may undertake ad-hoc reviews.

Compliance monitoring by AFMA

4.10 AFMA manages the Commonwealth's fisheries resources on behalf of the Australian Government and key stakeholders. Separate to DAFF's proposed compliance strategies, AFMA has undertaken compliance monitoring activities based on the outcomes of the buyback. Although the funding deed did not require fishers to exit the fishing industry, fishers could no longer fish against those concessions successfully tendered. AFMA was responsible for ensuring that the successful tenderers did not continue to fish in Commonwealth fisheries without appropriate authorisation.

4.11 In November 2006, the then AFMA Board agreed to conduct an ongoing monitoring and deterrence program that included:

- an education and media campaign to remind and encourage operators who had surrendered their concessions to refrain from undertaking illegal fishing activities and that any such activities would be closely monitored;
- the analysis of data and intelligence from Vessel Monitoring Systems, logbooks, information reports and port monitoring to identify risks;
- aerial surveillance and at sea patrols of identified concerns; and
- targeted operations.

4.12 To date, two vessels have been apprehended by AFMA. One of these vessels was successfully prosecuted under the *Fisheries Management Act 1991*. The matter concerning the other vessel is currently pending prosecution. AFMA conducted an informal evaluation of the monitoring and deterrence program (in line with the original structural adjustment monitoring arrangements) in July 2008. It considers that the program has been effective following the apprehension of two vessels and public communication of these events. Subsequent monitoring of fleet movements has, according to AFMA,

⁵⁸ Of those that did not respond, three recipients did not complete the survey, two could not be contacted, one had left the country and one had passed away. The grants involved are of \$5000 or less and DAFF has chosen not pursued these recipients at this stage.

marginalised those operators subject to the buyback being involved in such activity. Additional intelligence supplied by State fisheries agencies indicated that fishing activity generally had declined over the past year or two because of fuel costs and other economic factors. This decline was further reflected in movements of vessels, including those considered by AFMA to be of high risk. AFMA advised that it will continue to monitor vessels for compliance with licensing requirements.

Reporting the results of the buyback program

4.13 The program was developed and implemented within DAFF's reporting and accountability framework. Reporting to Parliament, stakeholders and the public provides assurance that funds were used efficiently and effectively. Ideally, it also provides a basis for assessing what progress has been made towards achieving the objectives of the buyback program. Reporting on the progress and outcomes of the buyback program included:

- internal reporting—to the General Manager responsible for the program and to DAFF's Executive;
- reporting to the then Minister—through briefings and minutes providing advice or seeking approval; and
- the department's *Annual Report 2006–07*—the number of fishing concessions that had been removed through the buyback program was reported but the extent to which the buyback's policy objectives have been met were not reported. Further, the amounts (average prices/range of prices) paid to tenderers have not been reported publicly.

4.14 The number of concessions bought, in total and per fishery, were publicly reported by the then Minister through media releases and in Parliament, on DAFF's website and through ABARE, BRS and industry publications.

Evaluating the effectiveness of the buyback program

4.15 The buyback was designed to reduce fishing capacity in the target fisheries and deliver more profitable fisheries for the fishers that remained. Reduction targets set by DAFF (as shown previously in Figure 4.1) were exceeded in the SESSE, NPF and ETBF but were not met in the other target fishery, the BSCZSF. In addition, concessions were also purchased in

non-target fisheries. Although the buyback immediately reduced the number of concessions in circulation, it will be some time before expected improvements to fish stocks or fishers' profitability will be visible and able to be measured.

4.16 In November 2006, DAFF conducted an internal audit of the buyback program to examine the processes and procedures to ensure consistency with the *Financial Management and Accountability Act 1997* (FMA Act) and enabling legislation. The audit found no evidence of the program departing from the FMA Act and the enabling legislation. Minor issues were raised around data control and quality assurance processes associated with data completion, and the extent of formalised documentation.

Performance information collected by DAFF to date

4.17 In 2006–07, DAFF engaged ABARE under a service level agreement to collect benchmark data for a later assessment of the full impact of the structural adjustment package on the structure and profitability of Commonwealth fisheries. The data to be collected included:

- information on the structure and profitability of fishing fleets in fisheries that had fishing concessions purchased;
- benchmark data (such as the number of permits, number of boats, profitability and the location of landings); and
- the details of what types of fishing operations, for example, small catch boats versus big catch boats, DAFF purchased in the buyback.

4.18 ABARE is currently examining survey data collected for three of the four target fisheries. It was not possible to examine the other target fishery, the BSCZSF, in the same way because it has been closed to all fishing since 2006.⁵⁹ ABARE will comment on the impact of the buyback on performance in July 2009. DAFF also advised that ABARE will, as part of this review, be able to comment more broadly on the impact of the buyback program on other Commonwealth fisheries.

⁵⁹ The former Minister for Fisheries, Forestry and Conservation formally closed the Bass Strait Central Zone Scallop Fishery (BSCZSF) from 2006 for a minimum of three years.

Information collected by AFMA

4.19 In 2007, AFMA undertook a preliminary analysis of the impact of the buyback on three of the four target fisheries—the SESSF, ETBF and the NPF. The shift in a series of indicators between 2005 and 2007 was analysed. These indicators included:

- physical indicators—landings/catch, number of active boats in the fishery, average catch per boat, level of effort; and
- economic indicators—latent effort, change in net returns and asset values.

4.20 Overall, AFMA suggested, that there were some positive indications emerging for these three fisheries. For example, average catch per boat had increased across all three fisheries. However, AFMA advised that, given the short timeframe since the buyback was delivered and the potentially significant impact that various other factors, such as environmental and market conditions can have, extreme care must be taken attributing the results entirely to the buyback. For example, AFMA noted that the increase in the average catch per boat in the ETBF was likely to be primarily due to the expansion of the albacore fishery.

Maintaining the benefits of the buyback

4.21 To gain an appreciation of how the success of other buybacks has been measured, the ANAO reviewed a number of reports⁶⁰ relating to buybacks undertaken in other fisheries in Australia and around the world. In summary, each report stressed the importance of the relationship between the buyback and the ongoing management plan for the fishery. A report on the buyback of concessions in the Great Barrier Reef Marine Park indicated that a buyout and the effectiveness of the related fisheries management arrangements should be viewed as being inseparable.⁶¹ Where this did not occur, the reduction in effort

⁶⁰ Reports reviewed by the ANAO included: Clark, C., Munro, G., and Sumaila, U., *Subsidies, buybacks, and sustainable fisheries*, Journal of Environmental Economics and Management 50 (2005) 47–58; United States General Accounting Office (GAO), *Commercial Fisheries: Entry of Fisherman Limits Benefits of Buyback Program*, June 2000; and R. Quentin Grafton and Harry W Nelson, *The Effects of Buy-Back Programs in the British Columbia Salmon Fishery*, Australian National University, August 2005.

⁶¹ Fisheries Economics, Research Management Pty. Ltd., *A Review Of The Business Exit (Licence Buyout) Assistance Component Of The Great Barrier Reef Marine Park Structural Adjustment Package: Final Report*, October 2007, p. 4.

achieved through the buyback was offset by the fishers increasing capacity or moving to alternate fisheries.

4.22 DAFF's expert advisors also commented on the importance of ongoing fisheries management in retaining any gains made through a buyback. They advised that the objectives of the structural adjustment package will fail to be realised unless catch and effort are set at levels that will ensure a sustainable and profitable fishing industry.

4.23 As such, the ongoing benefit of the buyback program is strongly linked to fishers' acceptance of the new management measures for fisheries and how effectively these are being implemented by AFMA. Of the target fisheries, the catch from the SESSF and BSCZSF are controlled through output controls.⁶² The NPF and the ETBF continue to be managed through input controls.⁶³ As previously discussed, the involvement of the NPF in the buyback program was conditional on the fishery's unanimous agreement to move to output controls from 2008. In the absence of a transition to output controls, the gains achieved through the buyback may be lost through 'effort creep' as fishers increase the efficiency of their inputs.⁶⁴

Conclusion

4.24 It is too early to determine the extent to which the buyback program has impacted the sustainability of fish stocks and the profitability of the fishing industry. The full effect of the buyback program will also be influenced by the effectiveness of the management measures being instituted by AFMA. The work being undertaken by ABARE provides a sound basis for measuring the impact of the buyback on the successful fisheries. The preliminary review completed by AFMA is also very useful and further reviews will give a clearer indication of the success or otherwise of the buyback. There would be considerable benefits in coordinating any future evaluation activities to ensure that there is not duplication of effort.

⁶² Under an output control regime, AFMA sets either an annual Total Allowable Catch (TAC) for each fishery which limits the quantity of fish that can be caught. Fishers own a right to a percentage of the TAC. Adjusting the TAC enables AFMA to respond to changes in fish stocks more accurately than adjusting the size of nets or the number of days that fishers can fish.

⁶³ As previously discussed, the ETBF is in the process of transferring to an output control regime.

⁶⁴ Where input controls are used to manage fisheries, fishers are able to increase their catch by improving the efficiency of the inputs they use. This is referred to as 'effort creep'.

Bass Strait Central Zone Scallop Fishery

4.25 Of the four target fisheries, the BSCZSF was the only fishery where the reduction target was not achieved. Of the total budget available to purchase fishing concessions (\$149 million), \$6 million was allocated to purchase BSCZSF packages. In total, 22 BSCZSF packages were purchased for \$1.7 million across the two rounds:

- five of the targeted 122 packages were purchased in round one; and
- 17 of the targeted 109 packages were purchased in round two.

4.26 Further packages were not purchased as they were not identified as being value for money.

Background to the BSCZSF

4.27 A large number of concessions were issued in this fishery during the 1980s and early 1990s. However, once scallop beds were located they were dredged and have not replenished to their former stock levels. A sharp decline in fish stocks since 1998 had resulted in the fishery being closed several times. At the time of the buyback program in 2006, the then Minister had closed the fishery for a minimum of three years.

Results in the BSCZSF

4.28 As discussed in paragraph 3.14, the average price DAFF was willing to pay for BSCZSF packages in round one was \$39 000. In round two, the average price increased to \$55 000 when the reduction target was reduced. In addition, an indicative price (maximum price) of \$110 000 per BSCZSF package was set. Table 4.2 illustrates the range of prices asked by fishers in primary tenders in each round.

Table 4.2

Details of BSCZSF packages offered in primary tenders

	Number of tenders offering BSCZSF packages	Average asking price (\$)	Lowest price asked (\$)	Highest price asked (\$)
Round One	84	285 566	85 000	750 000
Round Two	56	206 210	75 000	620 000

Source: ANAO analysis of DAFF data

4.29 The lowest price asked for BSCZSF packages was, in both rounds, more than the average price DAFF was willing to pay. BSCZSF packages were generally tendered alone and, in these instances, the algorithm did not have the capacity to distribute prices across other concessions.⁶⁵ The five BSCZSF packages purchased in round one were all offered in conjunction with other concessions, as illustrated in Appendix Three.

4.30 It was always going to be difficult for DAFF to achieve the high reduction target (80 per cent) set for the BSCZSF through a voluntary tender process. The constraints imposed by the evaluation approach such as, not disclosing pricing information from round one and the lack of details surrounding the evaluation methodology contributed to this outcome. To some degree, DAFF could have better communicated key aspects of the buyback to try and bridge the gap between the fisher’s expectations of what would be paid and DAFF’s knowledge of what it was willing to pay for the BSCZSF packages. For example:

- providing examples at the information sessions of what tenderers may consider including in their tenders, such as the loss from selling their boat incurred as a result of exiting the industry encouraged price expectations, which the average price in round one and the indicative price in round two for BSCZSF packages did not support;
- DAFF could have provided clearer indications to the BSCZSF and, if necessary, justification of its view that the future of the BSCZSF was bleak and concessions should be valued accordingly. Although the GVP data provided following round one may have lowered their price

⁶⁵ Of the 96 tenders that offered BSCZSF packages in round one, 69 tenders offered only BSCZSF packages.

expectations, it did little to help BSCZSF concession holders realise the magnitude of the price reduction required to be successful in round two;

- DAFF could have provided clearer information about how the tenders would be evaluated to help tenderers better understand the evaluation process. The importance being placed on the overall fishery budgets/targets and the total price asked and not the individual prices offered for concessions (and requested in round one) was also not clearly understood; and
- successful tenders always received the total price they asked for their tender. As DAFF did not release the prices paid for concessions in round one, the fishers assumed, in the absence of advice to the contrary, that the prices asked for the individual concessions were paid. As previously discussed, in the case of the BSCZSF, there was a significant difference between the prices asked for concessions and the price DAFF was willing to pay.

4.31 AFMA advised that the BSCZSF will be re-opened on 1 June 2009 but the total allowable catch for the fishery is yet to be agreed.



Steve Chapman
Acting Auditor-General

Canberra ACT
27 May 2009

Appendices

Appendix 1: Agency response



Australian Government
Department of Agriculture, Fisheries and Forestry
Audit-in-Confidence



14b

SECRETARY

| April 2009

Mr Matt Cahill
Group Executive Director
Performance Audit Services Group
Australian National Audit Office
GPO Box 707
CANBERRA ACT 2601

Dear Mr Cahill

Thank you for your letter of 13 March 2009 providing the Department of Agriculture, Fisheries and Forestry with the proposed performance audit report of the Administration of the Buyback Component of the Securing our Fishing Future Structural Adjustment Package for comment.

The department notes the Australian National Audit Office's (ANAO) finding that it successfully completed the buyback of fishing concessions and exceeded the reduction targets for three of the four target fisheries.

In addition, the department notes that no inconsistencies in the application of an algorithm in the evaluation of tenders were identified by either the Ernst and Young or the ANAO audits. The department acknowledges the need to improve the transparency and accountability of any future processes where an algorithm might be used.

An overall departmental response, including a response to the recommendation and a summary, are enclosed for publication in the final report. Also enclosed is some additional, detailed commentary on the audit report.

Finally, I would like to acknowledge the cooperation and assistance provided by members of your audit team.

Thank you for providing me with the opportunity to comment on the audit report.

Yours sincerely

Conall O'Connell

Enc.

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DEPARTMENT OF AGRICULTURE, FISHERIES AND FORESTRY



Australian Government

Department of Agriculture, Fisheries and Forestry

Audit-in-Confidence

Attachment A

1. Department's Full Response to the Audit

The Department of Agriculture, Fisheries and Forestry (DAFF) accepts the ANAO's conclusion that DAFF successfully completed the buyback of fishing concessions and exceeded the reduction targets in three of the four target fisheries. DAFF notes the ANAO's comments that appropriate avenues for advice and assistance were provided to applicants throughout the program and the evaluation of tenders was thorough and well designed.

DAFF notes the ANAO's account that the use of an algorithm to evaluate the large number of tenders received was an innovative and practical approach in achieving value for money. DAFF acknowledges the ANAO's comments that the documentation surrounding the risks associated with using the algorithm was limited and agrees that more effective communication would have improved its transparency.

DAFF notes the concerns in the audit report surrounding the quality assurance processes for the algorithm. DAFF agrees that greater documentation of quality assurance would have improved the transparency and accountability of the algorithm, but believes that the operational program requirements constrained the breadth of quality assurance and associated documentation. The government and industry required the buyback to be completed as quickly as possible with industry expressing the view that delays in delivering the package were causing hardship to their members.

The ANAO's conclusion that tenderers should have been provided more information regarding how tenders would be evaluated and selected is acknowledged by DAFF. DAFF would like to point out that as the buyback was implemented through a closed and competitive tender process this restricted the information that could be provided.

DAFF notes the buyback did not achieve the target for purchasing concessions in the Bass Strait Central Zone Scallop Fishery (BSCZSF). DAFF concluded that the significant gap between the prices being asked by concession holders and what the department considered value for money, could not be reconciled, other than for the 22 concessions purchased. This fishery had been closed since December 2005 and had a history of 'booms and busts' with an overall declining catch. DAFF significantly increased its indicative price for BSCZSF concessions to \$110 000 in round two, in an attempt to purchase more concessions. Given the history of the fishery DAFF would have had difficulty offering higher purchase prices, as this would have likely caused questions over value for money.

Appendix 2: How the algorithm worked

As many of the tenders submitted included more than one type of fishing concession, the search for successful tenders needed to be carried out simultaneously across a number of fisheries. To manage this complexity, ABARE used mathematical programming methods to select tenders for purchase. Simply put, at each step in the evaluation process, a question was asked. For example:

- What is the minimum cost of achieving all targets?
 - If so, which tenders must be selected in order to achieve the targets at least cost?
 - If not, which targets can be achieved in each fishery?
- Can the targeted number of NPF concessions be purchased within the funding cap?
 - If so, then which tenders must be selected in order to achieve the targets at least cost?
 - If not, then what is the maximum proportion of the targets that can be purchased for the same proportion of the funding cap? Which tenders are selected in order to achieve this maximum proportion of the target (pro rata reduction method)?
- What is the maximum number of fishing concessions of a given type that can be purchased within the funding cap?
- Which tenders must be selected in order to achieve this maximum number of concessions?

Each question corresponds to an integer programming problem. In integer programming, the key decision variables can only take discrete integral values. In the case of the evaluation of tenders, the key decision variables were whether or not an individual tender was to be selected in the optimal bundle of tenders. The discreteness of the problem makes it difficult to solve because the attractiveness of an individual tender could not be solely determined by marginal considerations such as the price or value ranking of the concession. In this instance the attractiveness of the tender also depended upon how well the set of concessions offered in the tender fit together with the other selected tenders.

The *Branch and Bound* method was used to exactly solve these integer programming problems for the population of tenders received. This method involves many similar linear (non-integer) programs being solved in order to iteratively refine bounds and rule out different possible sets (branches) of solutions which in this case, were the bundles of tenders that were not the optimal bundle. Algorithms of this type are a key tool in the field of operations research and are used routinely to find efficient results for scheduling, routing and design problems. For the tender evaluation process, the GAMS software package was used to implement the evaluation plan as a sequence of integer programs.

Source: Summary of information provided by ABARE

Appendix 3: Three examples of how the algorithm distributed a tender’s total price

The algorithm sought to identify the maximum number of concessions that could be purchased with the budgets available. To find the optimal bundle, the algorithm assigned an ‘effective’ price to each concession. Although each tenderer received the *total price asked* for their tender, the effective price ‘paid’ by the algorithm for *each concession offered* in the tender could be very different to the price asked. This was because the algorithm could distribute the total price across all the concessions offered in the tender (as illustrated in the examples below).

Tender One

Concession type and number offered	Price asked in tender (\$)	Effective price allocated by the algorithm (\$)
1 BSCZSF package	230 000	80 650
1 Trawl Boat SFR	310 000	459 350
Total	540 000	540 000

Tender Two

Concession type and number offered	Price asked in tender (\$)	Effective price allocated by the algorithm (\$)
3 BSCZSF packages	660 000	0
1 Gillnet Boat SFR	40 000	263 260
1 Scalefish Hook Boat SFR	150 000	394 020
1 Shark Hook Boat SFR	100 000	331 670
1 Tasmanian Coastal Waters—Shark Gillnet	15 000	121 050
1 Autolonglining Permit	120 000	
1 Victorian Coastal Waters—Scalefish Hook	25 000	0
Total	1 110 000	1 110 000

Tender Three

Concession type and number offered	Price asked in tender (\$)	Effective price allocated by the algorithm (\$)
1 BSCZSF package	250 000	37 380
1 Trawl Boat SFR	350 000	416 090
1 Victorian Coastal Waters –Inshore Trawl	20 000	166 530
Total	620 000	620 000

Source: ANAO analysis of DAFF data

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