



ABALONE ASSOCIATION NSW

Representing N.S.W ABALONE and SUTS Fisheries
Email: AANSW16@gmail.com
Protect, Promote and Enhance.

Document tendered by
AANSW
Presented by
Ros O'Brien
Date: 19/8/2022
Resolved to publish Yes / No

Parliament House 19th August 2022

Inquiry into the commencement of the Fisheries Management Amendment Act 2009

Attending for the Abalone Industry.
Mr Greg Rzy Association President.
Mr Stephen Bunney Industry Liaison and Abalone Commfish Representative.

NSW Abalone Industry Inquiry Statement

The Abundance, Resilience, and the Sustainability of wild abalone and their ecosystems should always come first.
Today's NSW Abalone fishery exists in a modern post-industrial marine estate environment that is influenced by an array of people driven consequence such as population, pollution, resource conflict, aquatic biosecurity, and climate change. These stressors are combining to change the ecological trajectories of some of our key coastal habitats and species such as abalone.,
Currently the NSW commercial Abalone fishery is meeting these challenges by using a *finer reef scale management* strategy that is linked into the greater NSW marine ecosystem-based management regime with a raft of dynamic assessment systems supported by tested stock performance indicators. This is the best approach to achieve the goals of Sustainability, Resilience and Adaption.

Therefore, the NSW Abalone industry supports Schedule 1 section 21AA borne by sustainable **cultural fishery catch settings** in Regulation, as intended.
The Hon Niall Blair MLC, Minister for Primary Industries (18 October 2017) remarked that:
"the intention has long been that s21AA would commence in conjunction with a cultural fishing regulation"

(a) the historical reasons for not commencing Schedule 1 for 11 years,

- That key aboriginal representative groups, including the NSW Aboriginal Land Council, NTSCORP and the AFAC, advised the NSW Government they no longer supported the Regulation.

The NSW abalone Industry believes that the critical failure point in achieving the intended outcomes of *Fisheries Management Amendment Act 2009* was the failure of the Aboriginal Fishing Advisory Council (AFAC) and other concerned aboriginal representative agencies in fulfilling their responsibilities to provide sustainable Abalone cultural catch *set limits* as prescribed to enable the

necessary Regulation required for *s21AA Fisheries Management Act Amendment 2009, Schedule 1*.

During the crucial period 2015- 2017, the Abalone industry had a representative on the Regulation Review Committee. The RRC's expectation was that the enabling cultural catch settings would be provided by AFAC to enact the regulation as a milestone step. At the 11th hour AFAC decided to renege on this fundamental responsibility. The consequences of which has led to this inquiry today.

(b) the present challenges to commencing Schedule 1,

There is an overriding fundamentalist political rights agenda that values itself before the key values of sustainability and stewardship and actively compromises any opportunity to find reasonable trade-offs and outcomes that would enable *Schedule 1*.

Again, the commencement of 21AA is as the Hon Niall Blair MLC stated; that the FM Amendment Act *was for s21AA to commence with a supporting regulation to support the conservation, development and sharing of fisheries resources*.

(c) the impact of the non-commencement of Schedule 1 on Aboriginal peoples and the practice of Aboriginal cultural fishing,

- It prevents Cultural fishers' rights progressing from the *Aboriginal Cultural Fishing Interim Access arrangements* and the S 37 permit system to a potentially superior holistically sustainable resource sharing and co management arrangement.
- It leaves aboriginal fishers vulnerable to criminal elements wishing to exploit the "cultural catch umbrella" for profit. Zero limits or open access arrangements on high value species like abalone has been demonstrated to be a considerable pull factor for serious organised crime syndicates.
- It diminishes the roll and engagement that First nation people have in the actual management of the fishery. By failing to engage realistically on basic catch criteria such as size and bag limits that reflects the recognised and understood sustainability standards Aboriginal peak bodies are disengaging cultural fishers from and making them irrelevant to the process of resource sustainability regulation development....
- 117mm is the standard minimum legal-size limit (MLSL) for abalone in NSW and is used by the recreational fishery. Simply, this MLSL guarantees that half the mature abalone has had an opportunity to reproduce at least 5 times and just as importantly ensures that mature abalone are spatially dense enough for efficient reproduction. The Commercial fisheries goes a step further with a MLSL of 120mm north of Wonboyn and 125 south of Wonboyn to the Victorian border. This is basic finer scale reef management.
- The resource does not see commercial effort, recreational effort, or cultural effort. It only sees sustainable or unsustainable effort. Density decline and colony collapse due to serial depletion is demonstratively catastrophic.

(d) steps previously taken and proposed to be taken by the government to commence Schedule 1,

The Schedule 1 process was well structured, managed, and thorough. The required instruments of the Aboriginal Fishing Trust and AFAC were created and operational very early on.

Since 2016, when the key aboriginal advisory groups: the NSW Aboriginal Land Council, NTSCORP and the AFAC, advised the NSW Government they would no longer support the Regulation, the NSW Government has been constantly engaging with these and other Traditional owners to develop alternative arrangements – called Local Management Plans (LMPs). LMPs seek to facilitate Aboriginal cultural fishing preferences and achieve the same natural resource management outcomes originally intended to be achieved through the schedule 1 regulation containing the sustainable legal minimum size limits and bag limits.

Note: That the commencement of Schedule 1 was always intended to have a structured fishing regulation attached to 21AA and that each fishery would need to be worked through regarding size limits and bag limits for the preservation of the future fish stocks. This had been worked through over numerous working groups along the east coast and then failed to be supported in the final meeting of these groups.

(e) compliance measures undertaken by Fisheries NSW as it pertains to the non-compliance of Schedule 1,

DPI has a duty of care to protect and manage all fisheries. Without the regulation that was prescribed by The Hon Niall Blair MLC, there would be no protection to sustainability of the fisheries.

(f) any other related matter.

The Abalone commercial fishery has been disappointed and somewhat dismayed by the seeming lack of acknowledgement and even rejection for the need of sustainable catch setting from some of the aboriginal elders and advisory groups.

The Department of Primary Industries fisheries (DPIf), Fisheries Research and Development corporation (FRDC) and the Indigenous Land and Sea Corporation are developing pathways for cultural fishers to enter the NSW commercial fishery. The NSW Abalone Association welcomes and supports this effort and stands ready to assist where appropriate.

Currently there are 45 matters before the courts relating to aboriginal people for some 11,462 seized abalone. The inescapable truth is that most of these seized abalone were undersize and immature.

Minimum Legal-Size Limits and Bag limits = Abundance, Resilience, Sustainability, Equity and Resource security.