



LEGISLATIVE COUNCIL

PORTFOLIO COMMITTEE NO.4 – CUSTOMER SERVICE AND NATURAL RESOURCES

MEDIA RELEASE

Upper House Committee releases its report on protections for Aboriginal cultural fishing

FOR IMMEDIATE RELEASE

7 November 2022

The NSW Upper House committee inquiry into the commencement of the *Fisheries Management Amendment Act 2009* has today released its report which makes four findings and seven recommendations relating to Aboriginal cultural fishing.

In particular, the committee has recommended to the NSW Government that it immediately stop all surveillance, compliance actions and prosecutions against Aboriginal cultural fishers until the provision Parliament passed some 13 years ago commences. It has also recommended that the NSW Government review and withdraw any penalty notices issued to Aboriginal individuals on the South Coast who were practising cultural fishing.

Section 21AA (included within Schedule 1 of the *Fisheries Management Amendment Act 2009*) makes a special provision for Aboriginal cultural fishing and protects cultural fishers from compliance actions under the Fisheries Management Act. The committee found that the NSW Government has failed to put into effect the will of the Parliament as it has not commenced section 21AA, despite it being passed by Parliament more than a decade ago.

While the committee accepted that the NSW Government was unable to reach agreement with stakeholders at the time concerning a supporting regulation for section 21AA, and so instead focussed on a local management approach, it found that all that has been achieved over the years is a single local management plan, restricted to a small area for the Hastings Aboriginal community on the North Coast. The chair of the committee, the Hon Mark Banasiak, MLC, commented 'here we are 13 years later, with still not much to show for the Parliament's intention to make special provision for Aboriginal cultural fishing.'

Mr Banasiak also said 'During this inquiry the committee was extremely concerned to hear of the level of damage inflicted by compliance actions on Aboriginal cultural fishers. We repeatedly heard stories of Aboriginal people being harassed, prosecuted, and fined for practising cultural fishing. Some Aboriginal fishers have been subject to terrible consequences, including jail terms and fines in the thousands of dollars.'

Mr Banasiak went on to say 'The committee learnt that the impact of compliance actions goes beyond individuals and is felt deeply across the whole Aboriginal community. The committee also learned that this is diminishing the transmission of culture from one generation to the next. These outcomes are clearly inconsistent with the NSW Government's commitments to the Closing the Gap Agreement and must be addressed. Until section 21AA is commenced, the committee has called for this type of compliance action to be ceased.'

The committee has recommended that 21AA should be commenced no later than 30 June 2023, with the NSW Government to take immediate steps to develop a supporting regulation in consultation with stakeholders.

Other recommendations in the report include:

- the need for better education and training for Fisheries compliance officers, covering Aboriginal cultural fishing and native title rights, to be delivered in partnership with key Aboriginal stakeholders
- an independent review of the culture and regulatory practices of the NSW Department of Primary Industries Fisheries compliance division to identify any systemic cultural problems
- improved support and programs for Aboriginal communities to give them greater opportunities in the commercial fishing sector.

Report details

The report is available on the committee's website:

<https://www.parliament.nsw.gov.au/committees/inquiries/Pages/inquiry-details.aspx?pk=2850#tab-members>

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