

**Submission  
No 14**

**INQUIRY INTO COMMENCEMENT OF THE FISHERIES  
MANAGEMENT AMENDMENT ACT 2009**

**Name:** Mr Kevin Mason

**Date Received:** 18 February 2022

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**Portfolio Committee No. 4 – Regional New South Wales, Water and Agriculture inquiry into the failure to proclaim the commencement of Schedule 1 of the Fisheries Management Amendment Act 2009 concerning Aboriginal cultural fishing**

Submission of Kevin Mason dated 20 February 2022.

Thank you for the opportunity to make an individual submission as a South Coast Aboriginal person to the Portfolio Committee No. 4 – Regional New South Wales, Water and Agriculture inquiry into the failure to proclaim the commencement of Schedule 1 of the *Fisheries Management Amendment Act 2009* concerning Aboriginal cultural fishing.

I am a South Coast Aboriginal person. My family has lived Narooma since I was born. I have lived on the South Coast here for all my life apart in 15 years.

**Law and Custom**

1. I am a 75-year-old Yuin man who has fished on the South Coast of New South Wales for most of my life. My father and grandfather taught me when I was a child about the traditional coastal way of life, they taught me how to read the ocean, how to weave in and out of currents, where to camp and how to survive from the water by catching a feed.

**Fishing**

2. I regularly fish for abalone, lobster, fish, seashells, oysters and mussels. Eating fresh from the sea keeps me healthy, active and happy.
3. When I fish, I feel connected to my Country and culture and feel thankful to continue my ancestors traditions of respecting and caring for the Sea.
4. Everything I know about fishing I was shown by my father, grandfather and uncles along the East Coast of New South Wales and my mother's family from Victoria. They passed on their knowledge on and taught me how to fish and gather in accordance with law and custom. They taught me how to dive for abalone and lobster and how to collect off the rocks at low tide.
5. Every time we go for a catch, we fish not just for ourselves to eat but to share with our older Aunties and Uncles who can't fish for themselves anymore. We are taught to only

take what we need to feed ourselves and our community. That rule has been passed down through generations and has always been respected.

6. I now teach my grandkids and great-grandchildren how to fish the same way I was taught. I was taught by my family and Elders that when I fish in accordance with our law and custom, I must:
  - Always leave some for later;
  - Take only what I and my family need;
  - Catch the fish that are not too small, and leave the big breeders;
  - Share the catch; and that
  - The ocean and land are our mother, treat her with respect.

### **Abalone Fishing**

7. I was taught to only take abalone the size of the palm of my hand and to leave the big abalone, the breeders, in the water so that there was always a constant supply for everyone to enjoy.
8. After collecting mutton fish (abalone) we would take the meat from the shells on the edge of the water and either leave the shells behind at the water's edge or throw them back into the ocean to feed the marine life and thank the spirits for our food. I was taught to pound the meat on the rocks to tenderise it straight after you catch it because if you leave the catch in the shell, it gets too tough. We would then cook it right at the water's edge or bag it up and take it home to cook and share with family.

### **Mystery Bay Camp**

9. Every year, mainly in the school holidays and at Easter and Christmas, all the grandkids and families come back to camp at Mystery Bay, to show our kids the traditions we were taught and give them the chance to learn how to fish to feed themselves. Our culture is not lost, we pass it down and teach our kids where to catch and how to prepare abalone, mussels, lobsters and oysters the way we were taught.

10. Throughout the year to prepare for camps at Mystery Bay I collect and bring firewood down and I move Abalone into the Bay to make sure there's plenty for everyone and that the Bay is not cleared out. Sometimes with all the families and the grandchildren and great-grandchildren there can be between 70 and 100 people camping there all fishing and diving for a catch. Everyone shares their catch and cooks together at the end of the day, just like we have for decades.

### **Impact of Fisheries Officers on Cultural Fishing**

11. The elders who can't dive, they still want to eat muttonfish, it's a healthy, fresh food. It's our traditional food that they can't afford to buy. Every time we would go for a fish our family would ask us to bring back a feed. So many people now say that they can't do that anymore they don't want to get fined, or they are afraid Fisheries will take their gear and their food.

12. The law doesn't consider the older people and the younger kids who can't fish. The bag limit is nowhere near enough to feed all our people. People feel that it's not safe for us to share the catch anymore and it hurts our communities deeply. Bringing abalone and shellfish to our families houses to sit together for a meal and a yarn is part of our culture, it keeps our communities strong and connected. It saddens me to see those traditions lost and to hear people in our community too afraid to fish the way we have for generations.

13. This traditional way to catch and cook abalone is a practice which my people are now afraid to follow. People are afraid to be harassed and fined by Fisheries for shucking abalone on the rocks and don't want to risk having their catch and their gear taken from them.

14. I have had proceedings commenced by NSW Fisheries against myself twice for fishing and both times proceedings were withdrawn. My son has also had proceedings commenced and withdrawn for fishing matters. I have seen my Elders and other people in our community chased and hunted off their own Sea Country.

15. I have on a number of occasions;

- Been approached on rock platforms by Fisheries Officers/Police/Marine Park officers,
- Chased while fishing,
- Approached by Fisheries Officers at my home, and,
- Had my fish and fishing gear taken from me, and,
- Been asked to provide my name and for ID without being shown fisheries officer's identification,

while fishing in accordance with my law and custom.

16. Our traditions cannot be practiced without constant harassment and our whole community feels that pain. Our people have been harassed, chased, charged, and sent to prison for exercising our right to fish on Country. We are not free to practice our culture anymore. Our traditions have survived through generations who have freely fished for themselves, and their families and it deeply saddens me to see culture taken away from people because they can no longer endure the constant harassment of NSW Fisheries.

## **Impact of Fisheries Management on our cultural resources**

17. The impact of commercial and recreational fishing on our sea country and fishing has been enormous. Each year they seem to take more and more, and no one has the time pf day for Aboriginal fishers.
18. Our sea country is altered by development in the catchment, and floodplain. Our saltmarshes and mangroves reclaimed, our seagrasses covered in sediment and algae from nutrients. This 'take' or impact on fisheries resources is not measured or planned for and is far greater than any other form of take.
19. Commercial fishers get the right to catch more, despite calls from Aboriginal people for a fair share of the resource going back over 50 years. It never is the right time for NSW Fisheries to ensure Aboriginal people can fish, and their cultural rights are protected.
20. We only fish on the shore. I don't go out to sea. Our abalone note that the south coast fishery is most healthy, largely due to our cultural management. Our Aboriginal lobster fishery is also well managed culturally. I take my grannies at this special spot for lobsters, its our family spot. You can't pull at the weed or cunjevoi, you have to leave it there so they come back.
21. We have different rules around take, and size and NSW Fisheries should try them for a while and see if they get a better result.

## **Outcome**

22. Our right to fish is sacred, it connects our people to our ancestors and unites our community. Fishing keeps our communities healthy and active ensures our traditional law and custom is passed down through generations.
23. When I fish, I am not fishing to make money, or just for food, but to practice the oldest continuous living culture on earth. I connect with the people who taught me how to fish in accordance with law and custom, and I connect with all the generations before them,

and when I teach, I am connecting with all the future generations in an unbroken timeless chain of culture.

24. I would like the Committee to consider recommending:

- That Fisheries stop their prosecution of me for the third time, after having withdrawn twice already, and withdrawn against my son when I have raised native title defences. I don't understand how they can keep coming back at me, it makes no sense and is very stressful. It hangs over my head and they should know better by now;
- As a priority, immediate commencement of section 21AA without regulations as per Parliament's intention in 2009;
- Education and resources for NSW Fisheries officers to ensure good literacy about and respect for my native title rights and interests and international human rights of Aboriginal people;
- Revising the Fisheries Management Act 1994 (NSW) to provide for equitable and culturally appropriate access for Aboriginal commercial fisheries.

Yours In United

Kevin mason