

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

**Name:** Mr Andrew Nye  
**Date Received:** 21 February 2022

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Partially  
Confidential

SHANNA: So, we're just going to confirm, Andy, that you give me permission to record this interview?

ANDREW: Yeah, I do give you permission, yes.

*S: You don't have to answer all the questions. If you feel uncomfortable at any point in time, you can just say you haven't got an answer for that or you can come back to me on it. It's important that you feel comfortable. We're going to record this today and then I'm going to type it up and give it back to you and you can make whatever changes you want. Once you're happy with it you can sign it to say 'Yep, this information is true and correct', and it will be sent in with other stories as part of the NSW Parliamentary Inquiry.*

A: I don't remember times and years and whatever.

*S: That's alright, let's just get what we can down today.*

Andrew Stanley Nye, 72 years old

Married with four children, 15 grandchildren and three great grandchildren.

*S: Have you had any interactions when you were fishing or diving with New South Wales Fisheries or other authorities?*

A: Yeah, like when we're fishing sometimes, they say we can't do this or can't do that. And with abalone or mutton fish, when me and my two boys and two nephews were down at Barlings Beach, we had some abalones and Fisheries come tearing up there and they tipped the abs out on the ground and when they counted them, they saw there was five of us and only 45 abs or something like that. We said, 'Aren't we allowed 10 each?' But they took them because they said some was undersized, but I don't see that when they weren't in a shell to be measured?

They said to me, 'Well, we'll only book you because the other boys are under age. We won't take your diving gear. I said, 'I don't think you should because you don't own it. I paid for that.... If you take that you're thieving off me. And they said, 'No, we're not'. And I said, 'Well if I walk over to that four-wheel drive and say that's a nice radio in there; I want that so I'll just take it'. They said, 'No that would be stealing', and I said, 'Well, what's the difference? ... 'What do you think you're doing if you take my diving gear? I never give you permission to take it.'

Anyway, I ended up in court and I think I got a \$250 fine. This is going back a few years ago and the kids were pretty young at the time That was just it, they only fined me because I was the only one over age. The fine was for the abs being undersized and over the bag limit.

We had other interactions with them prior to that. We had a big court case going on in Narooma about. There was eleven of us and we all got found guilty for undersize and over quota, when we should have won some points according to our barrister. It cost me \$1,200

that time. There was me, me brother-in-law, one of my boys and a couple of my nephews and some others not related. We were all Aboriginal [who got booked].

We lost our rights down there when we should have had some sort of rights from that. But you know, what I say to them now is, 'You show me proof of ownership before you go and decide to book me because how can you book me for something I already own?

I went down and picked up abalone near Barlings Beach and shucked them for a couple of boys that was diving there and when I walked back up the track, they were waiting for me because we were dobbed in by a whitefella. That was many, many years ago.

And about 7 or 8 years ago they booked [redacted] for a patch of fish he was catching commercially. They waited a week before two years were up because after two years they couldn't book him. So, we were talking down by the beach and they said, [redacted] you will get a letter in the mail tomorrow or the next day for a court appearance over that incident down at Mullimburra Point'. He went to court and finished up with an \$11,500 fine out of that.

And there was a chance he could have [gone] to jail. But I've got a letter at home here from Fisheries stating that you cannot do this blah, blah, blah and right down on the bottom it says, 'These rules do not apply for taking fish by using a seine net. I've been on meetings with other Aboriginal fishermen and I asked, 'Do you guys call our net a general purpose/beach-hauling net? And they said, 'Yeah, that's right'. I said, 'But actually our net is a seine net', and they said, 'Yeah that's right'. So those rules and regulations on this piece of paper didn't apply to taking fish using a seine net.

He [redacted] had a fishing licence but he didn't have the endorsements. He was exercising his cultural rights fishing for salmon. In his court papers it said, [redacted] rowed the boat, caught the fish and carted them to Bermagui'. They weren't mentioning us. Out of that I got a \$500 fine and I think it was because at the time we were skippers, but I can't remember. My nephew and his uncle never got a fine. I've got the paperwork and local newspaper articles. I think [redacted] is still paying that money off.

*S: Have you ever had any gear taken off you?*

A: No, I've never had any taken off me but my sons and nephews have.

There's one in process now that happened about a year and a half ago. [redacted] had all his diving gear, like goggles, flippers, wetsuits, [chisel] iron, bags and stuff taken. He was told to plead not guilty, so there's a chance that he might get his diving gear back.

One day they even took my grandson's gear. He was around 10 at the time. He was with his father when they took his diving gear but I don't think they had any rights to take my grandson's.

We've had a lot taken off us by Fisheries. We might have a little run in with Marine Park or National Parks but we can work through it with them, but with the Fisheries Department you don't seem to be able to make heads or tails of them. When they make their mind up about something, that's it.

*S: Do you reckon that it would be OK to interview*

A: Yeah, you can try but he doesn't talk much.

*S: Are you willing for                      name to be mentioned?*

A: I don't think he'd mind because we're all in this together. He's got his own fishing business same as me. We're all one.

*S: Was there ever any violence in any of these interactions that you had with them?*

A: No. There might have been just a few choice words here and there. The main thing that got hurt is our pocket because they took the abalone and lobsters. They don't take our fish catch. With the fish, you might get a fine if it's undersized or over the quota, but it still goes to markets.

*S: The first fine you got for the abalone, was that to be sold or shared with the family?*

A: It was just more or less for a feed and to be traded for something else. I'm trying to remember whether it was fruit, veggies, meat or whatever. What's the difference in me trading fish or abalone or lobsters to a butcher and he gives me meat? What I do with it is my business.

Why should we be told we're only allowed to have 3 kilos of abalone in our fridge at once when they can go out and do shopping and buy \$200 worth of meat and put it in their freezer?

*S: Did you have a lawyer represent you? Did you have to pay for them?*

A: Yes, his name was Bruce Levitt, but I don't know whether you want to use his name or not. No, we never paid for him. I think we got Legal Aid for most of the representation.

*S: Is that the Aboriginal Legal Service?*

A: Yeah, in Moruya. Most of the Fisheries cases have been done by legal aid.

*S: Were there any other costs to you because of these fines?*

A: We had to pay for petrol to the Bay, Narooma and Moruya. And we lost days from work because sometimes you might sit there all day and not get in.

We had to replace all our gear when it was taken from us. We had to buy new diving gear, wetsuits, goggles, snorkels, a new iron and stuff. And the prices have changed a lot. It all come out of our pocket.

And I think a lot about how much it costs us with all the restrictions on us. We've lost a lot through rule changes and I think the department should sit down and negotiate with the original owners of this country before they make up their rules and regulations that affect us, especially on that commercial side. We don't have a say in none of that and they sit there with their high and mighty barristers, and they make up all these rules and regulations, and we're supposed to abide by them but we don't agree with them. Because we're talking about our industry - our resource, not theirs; our land, not theirs, and we don't have a say over none of it.

As it stands right now, it might be calm tomorrow and I might go down the beach and there might be two or three or \$4,000 worth of fish sitting on a nice calm beach where we can catch them, but I'm not allowed to go on that beach and catch them tomorrow because Weekend Closures comes in on the first of November and ends at the end of February and we're not allowed to fish on the weekend because of the interests of the public so the Fisheries [Department] says. They say they [recreational fishers] save up all year and they want to go down the beach and sit on a chair, cast a line in and they don't want any interruptions from us commercial fishermen. And I said to them, 'Well, what about when it comes through the week? They're still all there; they don't go away and we haven't got the beach to ourselves. We can't go there and say, 'Well, you had Saturday and Sunday so the rest of the week's ours, you stay off the beach'. We can't do that.

When I mentioned that to them [Fisheries] they said, 'Well you can just go and have a little quiet word to them and ask if they could just come out of the water or just move on a little bit there for a while, while you do what you gotta do'.

*S: Did you have to take out loans to pay for the fines you got?*

A: No, we just let them go to **state debt???** and we pay it from there, because if you don't they cancel your driver's licence and your fishing licence or whatever. I know some people that lost their driver's licence because they didn't pay a dog fine. They never fixed it up and they lost their licence until it was paid.

*S: Were there any times when the charges were dropped for you or your family?*

A: I can't remember but there have been cases where Fisheries have pulled out of them. I think the reason why they pulled out was because the judge didn't want to make a ruling on it. He didn't want to be the one to say, 'Well, you know, these guys have done nothing wrong, they got the rights', so they withdrew the charges. And it's only because things have changed a lot from back then.

Before this abalone industry got going my father Andrew Leonard Knight was good mates with the manager from the Ulladulla Fishermen's Co-op and he liked my dad to go and get him some mutton fish (we always called them that then) to try, so Dad went and got him

some mutton fish but he kept wanting more and more, so Dad was doing that but he was only getting like sixpence a pound for them.

So, my dad and Bernard? Riley was the first two to start up the abalone industry and now it's run by all the whitefellas and us blackfellas have got no say in it. To me that's all wrong, because that's our resource. And they're the ones [abalone and lobsters] that's worth most money. I think if things go our way, we gonna get some of that back.

I hope this can all take place while I'm still alive; I want to see the end results come back in our favour.

*S: Have you ever been given any warnings?*

A: No, they've just had a couple of yarns to us but they never really warned us. Sometimes they say, 'You can do this and you can't do this', but not in an angry way.

Some non-Aboriginal fishermen have done the same things as Aboriginal people but they haven't copped the fines and penalties that the Aboriginal people have copped.

*S: How does that feel for you?*

A: It just makes me feel like we're being picked on or discriminated or something like that because of who we are and our colour. I've been a fisherman for 58 years since I was fourteen. I went from a \$2 licence where I could get lobsters and mutton fish and I could catch any type of fish. And now they've taken the lobsters and abalone off us and they're the main resources where we do make all the money from. We never took urchins so much but they've taken them too. We haven't got a say in none of that. I think that's just wrong and there is maybe only half a dozen whitefellas with the lobster part that's got it all sown up between them and we've got nothing.

*S: Was going to court stressful for you and your family?*

A: Yes, because we feel like we shouldn't have been there in the first place. Because, you know, you go into a courtroom and immediately you are intimidated because when you go in there, you're fighting tooth and nail to prove you're innocent. They're all saying that you're guilty; you've done something wrong to be there. And to me, we haven't done nothing wrong. If they think we've done something wrong, we should not be in a courtroom, because that's the White Man's court. We should be down on the headlands or on a corner of a beach somewhere where we feel like we're on Country. We do all our work on Country and as soon as you go into a courtroom you're just scared of what the judge is going to say or do because he's got the power to put whatever fine he wants on you or send you to jail if he wants to. That's only one man.

*S: Has any of your family ever done any jail time over fishing issues?*

A: Yes, \_\_\_\_\_ has spent time in jail for practising his cultural rights. He's done this all his life and he still continues to do it today, you know, and he just refuses to give up

and I don't blame him. I'm proud of him for standing up to the department and the government or whatever, you know. I believe that he's right in everything he's doing. I'll give you his name, but just check with him to make sure it's all right. It's . Ask him if he wants to give you a run down on his experience. He's and he's been all his life. He's seen maybe 12 or 14 Prime Ministers. You know, every four years you're gonna have a change of Prime Minister or government, but he's always been . The same as me, I have been Andrew Nye for 72 years and I tell people I'm Aboriginal and I'm proud of it and wouldn't change my life or who I am for anything in the world. I just want to live long enough to see that we get some sort of rights from this government and the Fisheries acknowledge who we are, that we are the original owners of this country and the resources.

If they don't think we're the original owners of the resources of the country well let them come up with proof of ownership, who they bought it off and the resources. And they can't do that because they haven't got proof. But we can prove who we are and where we come from.

If you say you own something, you've gotta be able to prove that you own it. If I go and grab someone's car and I go and sell it and then someone reports it stolen, then I get into trouble and I'm a bad fella, but if our land is getting sold off from under us to the Chinese and whoever then who's done the stealing there? We never sold it; we never gave our land or resources away; it was stolen. So let them come up with proof otherwise, back off, leave us alone and give us our rights.

*S: How does it feel for your family to have a criminal record?*

A: You know they say you've got a criminal record, but sometimes when you try to get legal aid or you want to get a barrister or a solicitor outside the Aboriginal Legal Aid, you can't get it because they say it's not a criminal record, but they give you a criminal record because you've been in trouble with Fisheries. So, you can't go and get legal aid from someone else other than Aboriginal Legal Aid.

*S: So, have these run-ins with the authorities affected your mental health?*

A: There's always a fear of getting fined especially for the young fellas because when you go diving these days you're always looking over your shoulder. They look over their shoulder because the Fisheries hide in the bush with their video cameras or whatever and to me they are a big part [cause] of what they call abalone declining because they'll sit up in the bush and watch them get out of the water, watch them clean the abs and then they'll come down and book them. Now that's not trying to protect the stock; that's trying to get as many charges as they can on that person. If they wanted to look after them [abalone] they would come down there and say, 'OK, we caught you. They'd count them out and see how many are undersized and throw them back in the water. But they don't do that; they wait until they're shucked and they're dead then so you can't chuck them back in the water. Half the time I don't know what they do with the ones they take. I don't know if they throw them in the tip or give them away to hospitals or just keep them and sell them themselves on the sly. I've got no idea.

And things go through your mind about why they do what they do and why the original owners aren't more involved in running this country, because it's ours.

My nephew rang me up one day because he had a flat tyre so I took one down to them and while I was there I got a feed of salmon to bring home for the mob. When I left Broulee there was a car behind me but it stayed well back. When I got up close to the highway there to turn right it turned left. When I went past Mossy Point turnoff there was a four-wheel drive pulled up on the side of the road. When I come up over the hill, he knew I was coming. He pulled out and he put out his hand for me to pull over. He come up and said, 'NSW State Fisheries; we had a call that you've been diving'. I said I hadn't but they asked me to open my boot up. They checked out the bags and I told them about the salmon. I hadn't been doing nothing wrong, but every time they see you they think you've been doing something wrong.

*S: Has there been any impact on your family's nutrition because you have restrictions on what you can fish?*

A: Yes, it's an important part of our diet because that's the only Aboriginal food you get is what comes out of that ocean. You can go down to Woollies and Coles or wherever and you can buy cans of this and cans of that, but it's all artificial; it's got this and that in it. All the veggies are grown organic and stuff. There's nothing you can get from them stores that's natural, but what you get out of the ocean is a natural resource and natural food because it's grown up on what it's supposed to grow up on. It's not like tomatoes, where they put this or that on it to make it grow quick. So really, these days you don't know what you're eating.

Why should we have to go and buy it when we should be able to go down to the beach and access that sort of thing and have access to our traditional foods?

*S: Do you think that there's a loss of cultural knowledge because of what's happening?*

A: I think the younger generation these days are getting pretty smart. I left school at 14; that's when I become a fisherman. But I never knew nothing much about our culture. All we knew was that we were Aboriginal people. And I never confronted racism or anything like that growing up. But you don't have to have someone say, 'You're a blackfella', it's just sometimes the way they look at you.

But like I say, I'm proud of who I am. I'm proud of being a blackfella. I'm proud of being a part of this land and the oldest culture in the world, because that's something to be proud of. But we're having a hard time hanging onto it because of all the pressures being put on us by different government departments because we cannot go and practise it.

*S: Is there anything else that you'd like to talk about that you think we haven't covered?*

A: We just want our water back so we can go and make a living, because right now I haven't made money fishing in probably going on 10 weeks. We have bills to pay but we're closed out by Marine Park, National Parks, Fisheries, Forestry or Council - one way or the other



they're stopping us from making a living. With everything, we've probably lost about 80% of beaches now where we can go and make a living from fishing and that. Marine Park and National Parks don't help us any. I think we should be allowed to catch fish in the Marine Park because they're migrating fish. So that has a big impact on whether we make a living or not. No one pays our wages. Like I say to Fisheries, 'If we don't catch fish this week then we don't get paid next week. But that doesn't matter to you. You sit in your office or go out on patrol or whatever but at the end of the week your pay's always in the bank'. But here they are telling us what we cannot fish. I told you they've taken abalone and lobster and they've also taken garfish off us.

We really need shares to access the. **The department bought shares.??** I saw a Fisheries Officer today and I actually tried to get the shares and the quotas put in and I'll let you know about them. Going back five years ago, I could catch 5,6,7, 8 tonne of garfish a year off 40 shares. And then Fisheries come along and changed rules and regulations and things like that and then said that off my 40 shares I'm only allowed to get 640 kilos of garfish in a year.

Going back about 4 years, we done a shot and we had about 3000 kilos of garfish. And if they're big garfish and you grade them, they could have been worth anywhere up to \$10,000 - \$12,000. But we had to open the back of our bag up on the net and let them fish all swim away. That's like having \$12,000 in your pocket and you take \$10,000 out and chuck it away, saying, 'I only need \$2000 so I'll chuck this \$10,000 away. And that hurts when you have to tip your wages out like that. Because that's not just all mine; it had to be split up between five of us.

We had a meeting with Fisheries not very long ago on video, and I mentioned about garfish, how we're not happy with the quota system they've given us and they said they were going to look into it, but they won't because they don't want to give you nothing. And they just keep taking the line that if they don't do nothing, we're just gonna go away and forget about it. But we're not because I feel as though we should be taking it up to the Fair Trading mob or something like that. Because who are they to tell us how to make a living, how much money we can make and how many fish we can catch?

I'll try and get that share management info because they were telling me that me and my son Craig couldn't go prawning because we didn't have enough shares. We did have enough shares but they changed it. They said we only had 125 but we needed 150 shares to take one boat and one net down there to fish individually. I said to them that I will sell my shares to my son Craig for \$50 or \$100 then we'll have 250 shares and he can go and take any Tom, Dick or Harry with him off the street. He doesn't have to be licensed or black or white or whatever colour.

They said, 'Well you can do that Andrew but we won't transfer the shares into his name'. I asked, 'Why is that?' and they said, 'Because you owe us money', and I said, 'Well I'm not going to pay you no more money because I'm over paying you guys money for accessing our own resources. We own the resource so why should I be paying you fellas money to access the resource when you should be paying us?'. Then they had a change of heart and said, 'Well you can continue to do what you're doing and you can take someone with you that's not licensed as a precautionary measure. Well, that's fair enough, because when you're

working by yourself in the night time in the boat and you've got waders and a raincoat on, if you fall in, who's there to help you and save you? No one. So that's all been sorted out and we're happy with that.

We lost a good friend down in Coila Lake because he went down there fishing by himself and it was a terrible night to be going fishing by himself down in that lake. But the reason why he went there was that he was under pressure. He had to go and make money because he had a family and bills to pay. He went down there and it was too rough and he fell out of his boat and drowned. If he had had someone with him just as an observer, then maybe they could have saved his life. That was sad. You just never know when things are going to happen but it's always nice if you've got someone there.

*S: Anything else you want to say?*

We've looked after this resource for 60,000 years, so we know how to look after it and protect it the same as the fire across the land. The way it went through here, that should never have happened. If it had been handed to the original owners of this country there would have been something done about it. A lot of people would still have homes. But we just got to sit down here when we knew it was coming and wait for a word from Sydney to give them information on what to do. Again, someone sitting in an office saying don't do this and do this when he's got no idea.

If we didn't know how to look after country, then we probably wouldn't be here because this fire that came through here two years ago would have wiped out so many tribes it wouldn't have been funny. We knew what we were doing; we knew how to farm, how to hunt and gather and all this and that.

All we want to do is to be able to sit down and talk with them and work out some sort of agreement or arrangement so we're safe.

I think down the line we have got Fisheries under a lot of pressure. I think they know we're getting strong and that we're not going to go away. We're here for the long haul. We've been here for 60,000 years, why would we go now?

EXTRA YARN

*S: How you keep your courage and strength up amazes me.*

A: Well, what I do is I get up in the morning, even if it's through the weekend – it could be rough or could be calm but I'll get up and have breakfast and sit around till nine o'clock then I'll just jump in the truck and I'll go down south to Moruya or Broulee [Beach] and I'll sit there by myself and I talk to strangers that come there. I just sit there from say, nine-thirty or 10 o'clock on and when I look at the time it's past three or four o'clock and time to go home. I just sit there and think about my life, how things have changed from when I was a kid, what we done when we were kids, and what we lived off growing up and stuff like that. And I think a lot about my cousins and those who've gone because of the lifestyle they've

lived, and I try to think in a positive way sort of thing what's in store for my grandchildren and my great grandchildren when they grow up.

Because to me life really isn't getting any better, every year there's sort of something new and things getting worse. Because I've never ever smoked or drank in my life and I'm proud of that. I go to the club for a go at the pokies and I'll have a lemon squash or glass of water. I think this could be one of the reasons why I've lived as long as I have, because my dad passed away when he was only 54. He was a non-drinker or smoker too. But when he was young he fell over a little bit of a cliff and hit the back of his neck and he never got it checked out, and as he grew up, he started suffering with migraine headaches. He went to chiropractors and finished up he went to Sydney to a specialist up there. Apparently a little bone in the back of his neck popped out and never went back into place and that's where his migraines were coming from. He used to take Aspros and Vincents Powders and they were no good for you and he suffered with high blood pressure.

I've got cousins who've been gone for like 20 or 30 years and I'm still here. It makes me wonder am I doing something right or am I lucky or is my time not up, I don't know. All I know is that I want to see my grandchildren and great grandchildren grow up, but how am I gonna do that when they keep having them? I got another one on the way. I just had my third great grandchild whose name is Mateo and he's only about five or six weeks old. I've got another little granddaughter coming in April. So, I'm gonna have to live to 100 to see all these grandchildren grow up!

When Mum passed away, she was 82 or so. Her name was Simone Rose. She suffered with diabetes for 30 years. She did smoke a little bit when she was young. There was nine in my family: four boys and five girls. When Mum passed away, she had something like 127-odd grandchildren and great grandchildren. I've got a photo of Mum in Moruya hospital that has five generations of us. Mum, me, me eldest son, granddaughter and great granddaughter.

You know how they say you see things when you're gonna pass away? One day when my sister was there, she kept saying, 'Who's that behind you there? And they said, 'No one's there Nan' (we always called her Nan even though she was my mother). My sister said, 'It's Maryanne', and she said, 'No, behind Maryanne', but there was no one there. And she would mention all the family members who had passed away.

When she was dying in hospital we spent a lot of time with her, but she couldn't talk to us. She squeezed our hand every now and then but she was always in pain because she suffered terrible with diabetes. They said everything was starting to shut down on her.

But the night she passed away she kept looking along a wall where the skirting board goes around the ceiling. She looked all along to the left, then all along the right and then she looked back and smiled and passed away. As soon as she passed away there was no pain, and I said to the rest of the family, 'I don't know about you but I feel relieved now that Mum has gone because I'm looking at her there now and there's no pain. She's at peace. And they said, 'We feel the same'.

End.