

**Submission  
No 30**

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

**Organisation:** Oxfam Australia  
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**Submission to 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**

**About Oxfam Australia**

Oxfam Australia (Oxfam) is part of an international confederation of 20 organisations with the purpose to relieve and eliminate poverty by addressing inequality, including among First Nations peoples. We strongly emphasise a rights-based approach to addressing poverty and injustice. Oxfam has long championed the right of First Nations peoples to self-determination, to their land and waters, and the right to free, prior and informed consent as articulated in the United Nations Declaration on the Rights of Indigenous Peoples. Oxfam has worked with and supported Aboriginal communities along the South Coast of New South Wales (NSW) since 2018. Its work has helped to amplify the voices of these communities through a series of short documentaries, media engagement and lobbying, as well as providing modest financial support to the NSW Aboriginal Fishing Rights Group.

## Outline

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### 1. Summary

This submission will demonstrate that the failure of successive NSW governments to proceed with the section 21AA amendment, and the accompanied targeting and harassment of the Aboriginal fishers, amounts to racial discrimination and human rights abuse. These actions constitute a denial of the right to life because they are deliberately aimed at giving preference to industry while inhibiting the ability of communities to access their traditional food sources. This is contrary to binding United Nations human rights treaties, including the Universal Declaration on Human Rights, to which the Australian Government is a signatory.<sup>1</sup> Crime statistics data obtained and analysed by Oxfam demonstrates systemically biased enforcement by Fisheries NSW and prosecutions by the Director of Public Prosecutions (DPP). This enforcement has wreaked untold damage on the lives of many Aboriginal people, leading to loss of employment opportunities, marriage breakdowns, homelessness, and widespread physical and mental health problems. Oxfam urges this committee to recommend to the Government that it immediately introduce 21AA so that NSW law aligns with the federal *Native Title Act 1993* (Native Title Act), and that it develops a strategy to support Aboriginal community and commercial fishing, which would then be included in the quotas for various fish stocks.

## 2. Significance of Aboriginal fishing

It goes without saying that hunting, gathering and fishing have underpinned the lives of millions of Australia's First Peoples for tens of thousands of years. From 1788, colonisation and the dispossession of traditional lands and waters pushed First Peoples to the margins of society, leading to many negative consequences, including the denial of these practices. But in some parts of NSW, traditional food gathering remains strong, and this is especially the case with the communities that Oxfam has worked with on the South Coast. Many Aboriginal people still conduct cultural fishing even though this is not recognised by law in the state (while the federal Native Title Act does so), and some also engage in commercial fishing. In our experience, the First Peoples engaged in these activities, some of them aged in their 60s and 70s, would be among the fittest and healthiest Indigenous people found in this country. This underscores the health and well-being benefits of cultural fishing, which are significant given the NSW Government's commitment to Closing the Gap.

In 2004, the National Native Title Tribunal developed an alternative dispute resolution process through the National Indigenous Fishing Principles, which provided that states would voluntarily recognise native title rights and interests in fisheries without requiring claims.<sup>2</sup> NSW agreed to implement these Principles, and in 2009 the Parliament passed an amendment to the *Fisheries Management Amendment Act 2009*, which included section 21AA. The section provided a process for recognising Aboriginal cultural fishing and it would have implemented the National Indigenous Fishing Principles to the extent of recognising non-commercial take. However, this section has never entered into force. Instead, the Department of Primary Industries (DPI) introduced in 2010 a regulation to provide for slightly larger daily "bag limits" for First Peoples as some form of de facto acknowledgement of traditional ownership. But without legislative change, cultural fishing in the state remains the target of aggressive and racially biased enforcement.

**The NSW Government has also responded in a limited way to the aspirations of Aboriginal fishers and communities by establishing a small fund, the Aboriginal Fishing Trust Fund, to provide grants for both cultural and commercial purposes. The government says that \$500,000 in grants and loans are available each year, but in the 2019–2020 funding round, DPI reports just six grants for a total of \$80,000.<sup>3</sup>** Both the bag limit and the trust can only be viewed as extremely limited responses, especially when compared to best practice both here in Australia and overseas. In New Zealand, for example, Māori people's rights have been underpinned by the Treaty of Waitangi, which has led to two significant settlements in recent decades. In 1989, an interim Waitangi Tribunal settlement awarded Māori 10% of the fishing quota, and a cash settlement. In 1992, a final settlement – known as the Sealord deal – granted Māori a 50% share in Sealord Products, New Zealand's largest fishing company.<sup>4</sup>

The experience in New Zealand highlights the role that treaties play in underpinning Indigenous rights. In NSW, a treaty process is not on the agenda, whereas in Victoria local treaties will include rights and interests in relation to the management of country. In Australia, the Torres Strait Regional Authority (TSRA) looked to the New Zealand experience to develop a model aimed at gaining greater control of the region's fisheries in terms of both commercial operations and resource management. This aim is supported through the management authority, the Protected Zone Joint Authority (PZJA). The TSRA now directly holds catch allocations and commercial quotas on behalf of the people of this region, with the aim of controlling the entire fishery.<sup>5</sup>

### 3. Evidence of systemic bias

#### What the data shows

In 2018, Oxfam began requesting data from the NSW Bureau of Crime Statistics and Research (BOCSAR) on criminal prosecutions and charges against Aboriginal people in the state for fisheries offences. This data is not readily released by the government and must be requested. As summarised in Table 1, the data for prosecutions under the *Fisheries Management Act 1994 (NSW)* (Fisheries Act) shows that over-representation of Aboriginal people increases with the severity of the punishment. Over the period from 1996 to 2020, Aboriginal people make up 31% of all cases brought before the courts in which Indigenous status is recorded, which makes them about nine times over-represented.

TABLE 1 Fisheries prosecutions in NSW, 1996–2020						
	Custody (prison)	Custodial alternatives	Community-based orders	Fines	Conditional release without conviction	No conviction
Number Aboriginal	30	23	93	279	6	5
Percentage Aboriginal	67	58	59	26	18	7
Times over-represented	22	19	19	9	6	2
Additional Aboriginal*	1	3	23	323	13	15

Source: NSW Bureau of Crime Statistics and Research  
 \* These additional figures obtained from applying the Indigenous percentage to prosecutions with no Indigenous status declared.

But the data shows that the incidence of Aboriginal people in fishing-related convictions is below average for lesser sentences, and above average for more severe sentences. For example, Aboriginal people account for only 7% of cases where no conviction is recorded, and 18% of cases that result in conditional release without conviction. But convictions that involved prison sentences that can be served in the community (custodial alternatives), or community-based orders, the Aboriginal representation is around 59%. For the most severe penalty, a prison sentence, the Aboriginal representation rises to 67%. The data shows extremely high rates of over-representation when compared to the Aboriginal population of about 3.4%. Data over the past decade shows even higher rates of Aboriginal conviction. **Since 2009, Aboriginal people account for about 80% of jail terms for fisheries offences.**

More recently, the NSW Government has adopted a strategy that involves charging many Aboriginal people and then not proceeding with the case. BOCSAR data shows that in the 18 months to June 2021, 70 Aboriginal people were charged with fisheries offences that did not result in a court outcome. Essentially, the cases were dropped. The comparable number for non-Indigenous people is 12. These charges are often accompanied by the confiscation of property, such as fishing gear, and significant stress and expense for the accused. Tony McAvoy SC, a Wiridi man and Australia’s first Indigenous senior counsel, describes this large number of charges as “a form of racial discrimination”, with Aboriginal fishers “subject to harassment,

arrest, [and] seizure of their property at a rate different to the rest of the population because of their Aboriginality".<sup>6</sup>

Much of the conflict between authorities and Aboriginal fishers in southern NSW involves the harvesting of abalone, a traditional shellfish consumed by the South Coast communities (sometimes referred to as the Yuin people) for tens of thousands of years. Cultural fishers often refer to abalone as a form of medicine, and the good health of some who are aged in their 60s and 70s attests to this claim. Since the 1970s, abalone has become a valuable export product. It can sell in the export market for up to \$450 per shucked kilogram.<sup>7</sup> In southern NSW, local prices have averaged around \$100 for the most commonly found black lip abalone. The industry's official harvest of 100 tonnes a year makes this a lucrative business. There are 44 commercial licence holders in NSW, and only one is held by a person who identifies as Aboriginal.<sup>8</sup> South Coast Aboriginal people say the government's increased bag limits are tokenistic and insufficient to feed communities. Aboriginal people can apply for a special permit to take a larger catch but this is usually permitted only for significant cultural events.

The enforcement focus on Aboriginal fishers has coincided with increased commercial abalone quotas as administered by the DPI. In the early 2000s, the abalone fishery experienced a sustained period of lower catches, with the Total Allowable Commercial Catch (TACC) cut from 110 tons in 2007–2008 and then to 75 tons in 2009–2010. (This annual assessment of the abalone fishery is commissioned each year by the DPI with the involvement of the Abalone Council of NSW, an industry body.) Subsequently, the TACC was increased to between 120 and 130 tons from 2012–2013 to 2017, a period of intense enforcement activity against Aboriginal fishers. Since 2018, the TACC has been set at 100 tons.<sup>9</sup> Prosecutions of Aboriginal people hit record levels of 34 in 2012, with ten of these involving prison sentences. This surge of enforcement activity followed the election of the Coalition government in 2011, and it may reflect greater industry influence on government than was previously the case.

### **Fisheries NSW practices**

This data tends to support the conclusion that Fisheries NSW, a unit within the Department of Primary Industries, has been targeting Aboriginal communities for a considerable period. This conclusion is also supported by the experiences of many Aboriginal fisheries and anecdotal evidence obtained from inside this department. We understand that Aboriginal cultural fishers are commonly referred to as "poachers" within the DPI and have been singled out as a group to be targeted, even though there is evidence from within the DPI that Aboriginal fishing is not a significant threat to fish stocks. For example, in one region in southern NSW, fisheries officers set up an Abalone Compliance Team, which produced a detailed list of names of Aboriginal people who had been charged, convicted and fined over many years for what they called "poaching". There were up to 30 names on the list which was held in a folder. It included names, addresses, and details on how many times they'd been arrested and charged or convicted.<sup>10</sup> The list only included Aboriginal people and did not identify people from other groups in the community who are known to fish along the coast, and who Fisheries NSW admits may pose an even greater threat to the health of fish stocks.

Numerous Aboriginal fishers, some of whom made submissions to this inquiry, have told Oxfam of how they believe they have been under surveillance by fisheries officers for many years, and that a network of informants paid by the DPI is used against them. Bill Cooley, a Gadigal Wondandian and Wulbunja man, says that one officer used to drive past his residence on a regular basis and, if his car was not there, he would look for him along the coast. In around 2003, the fisheries officer arranged for police to stop people who were leaving a funeral even though it was obvious that the attendees had not been fishing that day.<sup>11</sup>

Evidence of this negative culture can be found in government briefings and reports. Officials in Aboriginal Affairs NSW have referred to Aboriginal people being part of a criminal network, even though no such evidence has been proven in court.<sup>12</sup> A 2015 assessment report of the abalone stock discusses Aboriginal fishing extensively and asserts the existence of “strong black-market demand ... undertaken by highly organised illegal syndicates”. But the report provides no evidence at all that such syndicates exist or that they involve Aboriginal people.<sup>13</sup>

Even more concerning is the lack of concern among NSW bureaucrats about the impact that these prosecutions have had on the individuals and their communities. The 2021 abalone assessment report notes that there are currently around 40 legal matters involving Aboriginal harvesting, adding that these cases “require significant **government** legal resources to manage” [emphasis added].<sup>14</sup> No mention is made of the impact of these prosecutions on the individuals, their families, and their communities, especially when the DPI has instigated many prosecutions that have been abandoned. The report frames the issue in terms of economic loss to the state, as it notes that most of the Aboriginal catch is “undersized and sold well under the market value”. Encouragingly, the report notes that “opportunities to formally recognise an Aboriginal share of the fishery need to continue to be explored”, adding that this has occurred in other Australian jurisdictions, such as the Torres Strait, and in New Zealand.

### **Industry influence**

The influence of industry on the management of NSW fisheries is extensive. As mentioned, the industry is involved in producing the assessments of fish stocks and may have used its influence with the government to ramp up enforcement and prosecutions. It should be noted that while the stock assessment reports discuss the need for strong enforcement to protect the quota, the NSW Government has at times allowed industry to increase its quota. For example, in July last year the government allowed industry to transfer the unused amount of its quota from the previous year into the 2021–2022 year. The Section 37 Order that authorised this extension did not say how much unused quota was involved but, in response to questions, the DPI revealed that it amounted to 21.54 tons, or 21% of the annual quota. This increased quota could be utilised during a period from 1 August to 30 November, indicating an intensive period of additional fishing.<sup>15</sup> At the very same time, the NSW Government secured a prison sentence against a Walbunja man for taking 9.76 kilograms of shucked abalone.

## **4. Aboriginal rights and environmental impacts**

While Aboriginal cultural fishing is not provided for under state law, the right to fish and hunt is specified in Section 211 of the federal *Native Title Act 1993*. This section allows First Peoples to engage in traditional hunting and gathering even when state laws restrict or do not allow for these activities. Two High Court cases have affirmed these rights: *Akiba v Commonwealth* (2013) HCA 33, and *Karpany v Dietman* (2013) HCA 47.

In recent years, the NSW Government has sought to avoid testing legal rights in the Court by abandoning prosecutions at the 11<sup>th</sup> hour. In *NSW DPI v Ardler and Brown* (2013), costs of \$200,000 were awarded to the defendants upon the withdrawal of prosecution during hearing. The prosecution also agreed to pay costs after abandoning the case against Kevin Mason in July 2018. Legal counsel in communication with Oxfam have described these actions by the NSW Government as an “abuse of process”.

The South Coast communities have a registered native title claim over an area extending from southern Sydney to the Victorian border. It extends over 16,808 square kilometres of land and sea, following the coast for 450 kilometres while extending inland and out to sea. The claim was

submitted to the National Native Title Tribunal (NNTT) in August 2017 and was registered on 31 January 2018. The NSW Government did not oppose or comment on the application. The NNTT, a federal body which administers claims, found that “at least some of the claimed rights and interests have been established on a prima facie basis”.<sup>16</sup> Evidence given in recent court cases affirms the continued connection to country of the South Coast communities up to the present day. Leanne Parsons, born in Moruya in 1961, told the Liverpool Local Court last year of her traditional upbringing living at the North Head camp near the present location of Moruya Airport, 300 kilometres south of Sydney. The people living there had no power or water, said Parsons, and they regularly sold seafood to non-Aboriginal people. “Everyone done it to survive,” she explained. The Court was told of evidence of trading going back to first contact with colonists. During an expedition led by Governor Macquarie in 1811, the Traditional Owners traded seafood for biscuits and tobacco.

While it’s possible that the claim group may be able to reach a negotiated settlement with the NSW Government, it is significant that without a right in NSW to conduct cultural fishing, the NSW Government’s targeting of Aboriginal people may go some way towards undermining the native title rights of these communities. One result of the sustained enforcement activities is that many younger people have been deterred from traditional fishing, either through fear of the effects of these activities on physical and mental health and, in some instances, this has led them to engage in harmful behaviour.

Commenting on the native title claim, Magistrate Douglas Dick said in a recent criminal judgment the claim’s registration didn’t change anything. He said: “The registration of the claim did not operate to change existing laws and no inference should be drawn regarding the position of the State of New South Wales. It is not a document that does anything to recognise a change of rights especially relating to the claimed right to take for any purpose. I conclude the NSW Attorney General has merely reserved the state’s position.”<sup>17</sup> He acknowledged, however, that “Yuin culture remains strong. Aboriginal people along the coast have maintained their connection to country and appear determined to keep their traditions and knowledge alive”.<sup>18</sup>

The enforcement actions have been undertaken even though the Government’s own analysis indicates that Aboriginal fishing in NSW has a modest effect on stocks. The 2017 abalone stock assessment states that it has no estimates of the impact.<sup>19</sup> The 2015 assessment report made numerous references indicating that Aboriginal fishing was not a major concern even though higher bag limits had been introduced. For example, the report states:

- “... development of improved methods to permit indigenous catch are all thought to have improved the situation.”<sup>20</sup>
- “Based on the advice from the Department’s compliance staff that it [the Aboriginal catch] is **significantly less than the amounts formally permitted**” [emphasis added].<sup>21</sup>
- “... the southern sub-Regions, between Sydney and Wreck Bay (sub-Regions J, K and L), had considerably higher abalone abundance and had lost fewer historically productive sites than the northern sub-Regions, and slightly more than half of all sites fished in these southern sub-Regions had catch rates greater than was recorded there in 1994.”<sup>22</sup>

The latest assessment report puts the permitted Aboriginal catch at just 1 ton per annum. But it estimates the “illegal catch” at 20 tons per annum, and notes that a growing number of non-English speaking people have become involved in abalone harvesting and some are fishing illegally, often using scuba equipment and small vessels.<sup>23</sup> There is no evidence that Aboriginal people have carried out cultural fishing with this equipment as they typically dive with a snorkel, goggles, and a wetsuit. This indicates that it is the non-Indigenous fishers who account for a large share of the “illegal” catch.



It is important to note that NSW policy is below best practice found in Australia, and as outlined in *Marine Fisheries and Aquaculture*, a 2016 report by the Commonwealth Productivity Commission. The report made significant recommendations to support Aboriginal cultural fishing.<sup>24</sup>

RECOMMENDATION 5.1 said in part: “Fisheries management regimes should recognise Indigenous customary fishing as a sector in its own right.”

RECOMMENDATION 5.3 said: “Where there is a need for resource sharing arrangements, governments should set aside a level of catch for local Indigenous communities that is sufficient to maintain their customs before allocating access to other sectors.”

We believe that recognising Aboriginal cultural fishing, and supporting the development of Aboriginal commercial fishing, are critically important reforms for the NSW Government. Legislative change should be backed by funding to build the capacity of both cultural and commercial fishers so they can sustainably take part in this industry.

## **5. Recent criminal cases**

Oxfam has been closely following a number of prosecutions before NSW courts in recent years. One theme to emerge from them is that the individuals involved have a very strong connection to their country, their culture and their community, and their fishing is an inherent part of these connections.

### **Kevin Mason**

Mr Mason is a 75-year-old Walbunja Traditional Owner who provides for South Coast communities through his fishing. In recent years, he has faced court on at least three occasions. In July 2018, he attended Narooma Local Court with his legal counsel, Mr McAvoy SC, to defend charges that involved the taking of just 28 abalone. On the morning of the appearance, his counsel was told that the prosecutor had abandoned the case.

Last year, footage was broadcast of Mr Mason being aggressively apprehended in the surf by a fisheries officer in 2018 even though he was shown to be clutching a very small bag of seafood. In this stressful encounter, Mr Mason firmly and clearly states that he is a native title holder. He has suffered from constant harassment and surveillance and has had his fishing gear confiscated on numerous occasions. He explains the effect on his well-being: “The stress of being prosecuted for what I’ve done nearly all my life, is mind-boggling.”<sup>25</sup>

Mr Mason says he fishes to help feed his community: “I’m just feeding my mob, that’s all I’m doing. I share my catch with my family and people around me. They put a stop to that sort of thing.”

### **John Henry Junior Carriage**

Mr Carriage has been engaged in cultural fishing for most of his life – and has incurred two criminal sentences as a result. He was raised on the NSW South Coast in an area of Crown Land known as Little Paddock, and at Barlings Beach. Together with his extended family, he lived a semi-traditional lifestyle for most of his upbringing as his father did not have paid employment and he supported the family by fishing and trading. He continues to enunciate his traditional values through his Facebook group, the Walbunja Aboriginal Divers and Fishing Group. Outlining the purpose of the group, he states on the page:

I am a traditional owner of the South Coast. I am a Walbunja man and I am fighting for my native rights to harvest, trade and barter my seafood resources. I would like to continue to be able to feed my elders without being convicted or harassed. Please join this page if you share the same concerns.

On 21 October 2021, Mr Carriage was given a jail term for offences concerning a bag of shucked abalone weighing 9.76 kilograms harvested from the Batemans Bay Marine Sanctuary on 29 December 2017. His 12-month imprisonment term is being served as an intensive correction order in the community in accordance with the *Crimes (Administration of Sentence) Act 1999*. He received fines of \$6,000 – about six times the value of the abalone – and a two-year prohibition order, which prevents him from going in the water or possessing any diving equipment.<sup>26</sup>

Mr Carriage had faced three charges relating to the size and number of abalone he was found with, and his having shucked them while not being a commercial fisher. The other three charges related to his conduct towards the fisheries officers (resist/obstruct, abusive language, and failing to provide information).<sup>27</sup>

When first approached by one of two officers, Fisheries Officer Donaldson, Mr Carriage refused to provide his name and address, stating that he was “on my traditional country, I’ve done nothing wrong so I won’t state nothing”.<sup>28</sup> The exchange between Mr Carriage and the officer then became abusive, involving the use of bad language by Mr Carriage.

In finding Mr Carriage guilty, Magistrate Dick said that Mr Carriage’s admission to having sold abalone to survive meant he had not been engaged in cultural fishing. He described the catch of 9.76 kilograms that Mr Carriage was found with as “such a large quantity for the purpose of sale” that was not consistent with “Yuin Nation customs”. Magistrate Dick said it was necessary to prove that an accused had engaged in a traditional practice. Magistrate Dick said: “An accused must provide evidence demonstrating that the fishing occurred in the exercise of a traditional laws and customs recognised by and adhered to by the accused and the Yuin community.”<sup>29</sup> In his subjective view, Mr Carriage had failed to demonstrate this, and he was found guilty.

## 6. Recommendations

Based on our consultations with various Aboriginal community members and groups in recent years, and research into options, Oxfam calls on the committee to support the following positive changes:

1. Introduce Section 21AA as per Parliament’s intention in 2009.
2. Require Fisheries NSW to train staff in native title rights and interests, Aboriginal culture, and the international human rights of Aboriginal people.
3. Amend the Fisheries Act to provide for a community-held licence which would operate within the commercial quotas for various fisheries.
4. Require the DPI to immediately involve Aboriginal people in all decision-making bodies that deal with fisheries management, including the resource assessment committees.
5. Commit to fund \$10 million over four years to establish a Marine NSW Aboriginal Economic Development and Training Fund to enable Aboriginal organisations and fishers to participate in the management and exploitation of resources, for both cultural and commercial purposes.

6. Develop a 10-year strategy to transfer the management of all marine resources in NSW to accredited Aboriginal organisations, including resources to develop the capacity of Traditional Owner governing bodies.

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<sup>1</sup> See Article 3 of the Universal Declaration of Human Rights, and Article 6 of the International Covenant on Civil and Political Rights.

<sup>2</sup> NNTT 2004. 'Fishing principles to guide Indigenous involvement in marine management', Media Release, 22 December.

<sup>3</sup> DPI NSW, 'Aboriginal Fishing Trust Fund', [www.dpi.nsw.gov.au/fishing/aboriginal-fishing/AFTF](http://www.dpi.nsw.gov.au/fishing/aboriginal-fishing/AFTF) accessed 22 February 2022.

<sup>4</sup> Government of New Zealand, 'Fisheries management Practices', < <https://teara.govt.nz/en/te-hi-ika-maori-fishing/page-6>>., accessed 22 February 2022.

<sup>5</sup> TSRA, 'Fisheries', < <https://www.tsra.gov.au/the-tsra/programmes/fisheries>>, accessed 23 February 2022.

<sup>6</sup> Interview with the author, published in 'A Load of Abalone', *The Monthly*, May 2021.

<sup>7</sup> <https://tasliveabalone.com.au/product/green-vacuum-packed> <accessed 15 February 2022>

<sup>8</sup> Email response to questions from Oxfam by DPI spokesperson, 19 October 2021

<sup>9</sup> Total Allowable Commercial Catch Committee – *Abalone Determination and Report 2015*, p.1

<sup>10</sup> Confidential interview with former staff member.

<sup>11</sup> Author interview with Bill Cooley, 2 February 2022.

<sup>12</sup> Author meeting with AANSW officials, 2018.

<sup>13</sup> Total Allowable Commercial Catch Committee 2015 op. cit., p.10.

<sup>14</sup> Total Allowable Commercial Catch Committee – *Abalone Fishery. Determination for the 2021/22 Fishing Period*, p.6.

<sup>15</sup> Email response to questions from Oxfam by DPI spokesperson, 19 October 2021.

<sup>16</sup> NNTT 2018. 'Registration Decision', NNTT case number NC2017/003, p.15.

<sup>17</sup> Batemans Bay Local Court, *NSW DPI v John Henry Junior Carriage*, 24 September, at [41].

<sup>18</sup> *ibid.*, p.18.

<sup>19</sup> *2017 Assessment of NSW Abalone Fishery*, 5.3.2.

<sup>20</sup> 2015 assessment, p.26.

<sup>21</sup> *ibid.*, p.59.

<sup>22</sup> *ibid.*, p.18.

<sup>23</sup> TAC 2021, op. cit., pp9-10.

<sup>24</sup> Productivity Commission 2016. <<https://www.pc.gov.au/inquiries/completed/fisheries-aquaculture#report>>

<sup>25</sup> ABC TV, 12 July 2017. < <https://www.abc.net.au/news/2018-07-12/fishing-rights-abalone-could-have-put-great-grandfather-in-jail/9958280>>

<sup>26</sup> Email correspondence from Batemans Bay Local Court, 21 October 2021.

<sup>27</sup> Batemans Bay Local Court, *NSW DPI v John Henry Junior Carriage*, 24 September, p.3.

<sup>28</sup> *ibid.*, p.6.

<sup>29</sup> *NSW DPI v John Henry Junior Carriage op. cit.*, at [90].