

**Submission
No 49**

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

Name: Professional Fisher's Association

Date Received: 17 August 2022

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The Director
Portfolio Committee No. 4
Parliament House
Macquarie Street
Sydney NSW 2000

Dear Director,

RE: Submission to Inquiry into the Portfolio Committee No. 4 - Customer Service and Natural Resources inquire into and report on the failure to proclaim the commencement of Schedule 1 of the Fisheries Management Amendment Act 2009 concerning Aboriginal cultural fishing

Please find attached the PFA Submission to this Inquiry. I am available to provide advice and answer any questions regarding this submission. The Professional Fishers Association is the representative body of 220 licensed commercial fishers from across NSW. We were established to represent their best interests and communicate their concerns since 2009.

Yours sincerely

Tricia Beatty

Chief Executive Officer

PFA Submission to Portfolio Committee No. 4 - Customer Service and Natural Resources Inquiry:

Aboriginal Cultural Fishing

In accordance with the requirements of the Portfolio Committee No. 4 - Customer Service and Natural Resources inquire into and report on the failure to proclaim the commencement of Schedule 1 of the Fisheries Management Amendment Act 2009 concerning Aboriginal cultural fishing, the PFA submission is based strictly upon the Terms of Reference, which states:

- (a) the historical reasons for not commencing Schedule 1 for 11 years,
- (b) the present challenges to commencing Schedule 1,
- (c) the impact of the non-commencement of Schedule 1 on Aboriginal peoples and the practice of Aboriginal cultural fishing,
- (d) steps previously taken and proposed to be taken by the government to commence Schedule 1,
- (e) compliance measures undertaken by Fisheries NSW as it pertains to the non-compliance of Schedule 1, and
- (f) any other related matter

This submission has been authorised by the Committee of Management (CoM) of the Professional Fishers' Association of NSW (PFA).

The submission focuses on responding to three main elements pertinent to the Inquiry into the commencement of the Fisheries Management Amendment Act 2009 concerning Aboriginal cultural fishing.

- Present **Challenges** to commencing Schedule 1 (b),
- **compliance measures** (e) and
- **other related matters** (f).

Who we are

The NSW professional fishing industry contributes more than \$436 million in revenue annually and accounts for around 3,300 full-time jobs. This includes the fishers, service industries, sales and marketing. Tourism and hospitality also benefit as local wild-caught fish, crabs, lobsters and prawns are menu favourites among tourists and locals. Commercial fishers, wholesalers, processors and retailers, work together with the restaurant and catering industry to supply fresh seafood to communities across the State, as well as to interstate and overseas markets.

The NSW commercial fisheries are carefully managed. The resource is shared amongst over 800 commercial fishers who catch fish for the whole community to enjoy. The industry has recognised the challenges in making fisheries sustainable and has led many of the changes introduced to improve environmental performance.

The NSW fishing industry is primarily made up of small family businesses that rely on high levels of local knowledge and skills learnt over many generations. These businesses use some of the most environmentally sound technology available, such as world leading by-catch reduction devices, and operate under stringent controls regarding their fishing times, seasons and equipment. The industry is constantly striving to improve its environmental performance and contributes millions of dollars each year to research and compliance programs.

The clean and green reputation of the whole NSW seafood industry depends on fisheries being viable, profitable and sustainable. The industry underpins the economy of many coastal towns providing wealth and employment in places, and at times of the year, where there is little other economic activity.

The recently released two-year research project funded by the FRDC and its research partners: the University of Technology Sydney, the University of Wollongong, ENVision Consulting and Western Research Institute, aimed at evaluating the wide-ranging social and economic contributions that the commercial wild-catch fishing industry makes to NSW coastal communities. A copy of the report can be found at <https://www.uts.edu.au/about/faculty-arts-and-social-sciences/research/projects/valuing-coastal-fisheries>.

Findings from the independent UTS “Valuing Coastal Fisheries Project” found:

- 94 per cent of the general public in NSW believes it is important that seafood continues to be produced in NSW
- 96 per cent believe buying local seafood is better for the local community
- 89 per cent of NSW residents expect to eat fresh local seafood when holidaying on the coast, 76 per cent say it is an important part of their coastal visit experience
- 60 per cent of professional fishers have helped out with search and rescue operations in estuaries and coastal waters
- 78 per cent of recreational fishers across the state prefer local bait

Aboriginal Cultural Fishing

"Aboriginal cultural fishing means fishing activities and practices carried out by Aboriginal persons for the purpose of satisfying their personal, domestic or communal needs, or for educational or ceremonial purposes or other traditional purposes, and which do not have a commercial purpose".

NSW FISHERIES MANAGEMENT ACT 1994 (NSW)

The PFA respects the rights of Indigenous fishers to practice their cultural fishing activities for the purpose of satisfying their personal, domestic or communal needs, or for educational or ceremonial purposes.

Protecting and promoting cultural fishing activities of Aboriginal communities is recognised in managing our fisheries resources with measures that provide for continued access to and involvement of Aboriginal people in the management of the NSW fisheries resource.

Governance of NSW Fishery Resources

The NSW Fisheries Management Act aims 'to conserve, develop and share the fishery resources of the State for the benefit of present and future generations. As users of the fishery resource, of which our livelihoods depend, it is essential that this management and governance is robust and stable.

Australia's marine environment is a significant asset.

Commercial Fishing is managed under strict input and output controls to ensure sustainable use of this asset. Not only must we comply with these management measures, but we must also contribute substantially for a part of the management, research, monitoring and enforcement. In addition to the gear restrictions and modifications, area and season closures, and restricted access, we are also required to complete daily and monthly records and meet other compliance measures and enforcement. In many cases now, the vessels are not allowed to leave their home ports unless real-time reporting is completed through apps to notify when and where vessels are operating.

The NSW commercial fishing industry has undergone significant reform in recent years and a new management regime directly controls the amount of catch that can be taken from, or effort that can be used in a fishery. These reforms have strengthened management arrangements under which NSW commercial fisheries operate. The new arrangements mean that in many cases a Total Allowable Catch (TAC) or Total Allowable Effort (TAE) is now set for a fishery, and shareholders receive an allocation (or a limit) of catch or effort to which they can fish. The allocation that they receive is approximately proportionate to the number of commercial fishery shares they hold. Each year the TAC or TAE for each species is scientifically determined and then allocated amongst shareholders as an annual quota allocation. The level of catch by other sectors, such as recreational and Aboriginal, is taken into account when setting the TAC or TAE.

However, catch sharing among fishing sectors requires credible data for decision-making, allocation and management. Historically, the commercial fisheries sector has received most attention by management agencies as it was considered to harvest more fish and have greater economic importance than the other sectors. However, it is becoming widely accepted that the recreational and Indigenous sectors takes a significant proportion of the catch from **some** fisheries (Cooke & Cowx [2006](#); Ihde *et al.* [2011](#); Lloret & Font [2013](#)).

Effective regulation is needed across all sectors to ensure that fisheries are sustainable and provide maximum value to the community. Robust management and monitoring of our NSW fisheries is essential to ensure confidence and stability in our livelihoods.

Concerns, issues and challenges

Data needs: The significant lack of data for the Indigenous fishing harvests severely limits the strength of fisheries management decisions and therefore creates higher risk to the management of all sectors and heavier use of the precautionary principle by the Department. This further limits the potential development and growth of the NSW commercial fishing sector.

Indigenous customary fishing activity is at best sporadically monitored and impacts on stock sustainability largely uncounted in fishery management regimes. Indigenous fishing needs appropriate management and monitoring, as does all harvesting of aquatic resources.

The reforms to the commercial fishing industry were made to foster an economically viable, environmentally sustainable commercial fishing industry where fishers have the flexibility and certainty, they need to operate their businesses. However, this is jeopardised if Indigenous fishing is unmanaged and not monitored.

In setting the TACs and TAEs for our fisheries, the Total Allowable Fisheries Committee (and DPI) must consider usage of other sectors – their impact on mortality of the species and effort in harvesting to be able to consider the health and trend of the fisheries stock. Without this crucial information, they do not have confidence in the data provide and therefore take a more Precautionary Approach in setting the commercial allocation of the fisheries resource. Fisheries management aims to attain maximum sustainable yield (MSY) or Optimum Sustainable Yield (OSY). To not achieve this reduces the economic benefit to the community for use of the resource.

Compliance

All management regimes, no matter for which sector, requires a strong compliance system in place to ensure the public has confidence in the sustainable management of the resource. Compliance upholds the integrity of the system. However, the issue is often the ability to determine the legitimacy of the Indigenous claim to the specific sea-country. The PFA respects the need for customary rights to be upheld however, experience from other states shows that the system can be and has been abused by those who claim customary rights to abuse the system. The PFA strongly urges consideration of how to ensure that these customary rights are maintain but not abused by those who are not recognised/entitled to do so.

The PFA supports a management regime that

- Enables recognised Aboriginal cultural fishing to take a higher level than prescribed to recreational fishers. With the understanding that higher levels can be accessed through the Section 37 permits system;
- Alternative, the PFA is aware that DPI Fisheries is working with local Indigenous groups on Local Management Plans to ensure appropriateness of the cultural significance and needs of the specific region, as is currently being developed on the Hastings and Tweed.
- A strong identification process that maintain the rights of customary fishers recognised to their specific sea country.
- The systems must be complemented with a monitoring system that captures harvest and effort levels to ensure the sustainable management of our resources;
 - Similar monitoring systems to the Northern Territory's cultural fishing management regime. The Northern Territory has established the Indigenous Community Marine

Ranger Program that delivers appropriate monitoring and research programs. In addition, the program also delivers compliance components:

- Fisheries Compliance (Seafood Industry) Certificate II and III delivered to Aboriginal sea rangers
- amendment of the Fisheries Act to enable the appointment of Aboriginal people as fisheries inspectors, and the appointment of the first inspectors under this new legislation
- also note: Certificate II Measuring and Analysis delivered to sea rangers - this supports their engagement in fisheries research projects

Other Potential Issues

PFA is aware that there are many within the Indigenous sector who state that they should be allowed to sell their customary harvest. The PFA welcomes Indigenous fishers within our commercial fishing sector and note that there are many licences that exist to ensure the safe selling of seafood for human consumption - including licences to ensure the safety of the product (NSW Foodsafe licensing) as well as safety of the person/vessel (Australian Maritime Safety Authority licensing) as well as protection of the resource (NSW Fisheries commercial fishing licensing). Management and licensing ensures safety and appropriate management of a resource and the activities within its use.

The NSW Government has already provided assistance to Aboriginal people to purchase existing commercial fishing businesses.

Other Potential Opportunities

The NSW Government has significantly invested in creating opportunities for Aboriginals to invest into our NSW Commercial Fishing Industry by providing trust funds to purchase existing fishing businesses and shares. The PFA supports this investment and endeavour. We would like to assist with this process to ensure both its success and longevity.

Previously the PFA approached both DPI and the Aboriginal Fishing Advisory Council offering a partnership program that outlines a possible mentoring service which saw the linking of interested Aboriginals with Commercial Fishers who would be interested in both mentoring and the possibility of exiting the industry by selling their business to the mentored.

Although the Aboriginal Fishing Advisory Council expressed interest, no further discussion with PFA has occurred. We still strongly believe that providing money to purchase fishing business is not enough to ensure the success of that business. Mentoring and training is required to ensure the businesses success. Our commercial fishers have learnt their skills over the generations or through years on site training (crew). We strongly urge that consideration be given to initial proposal, to not only to ensure the success of the program but to also provide strong positive relationship between the two sectors.