Draft Aboriginal fishing strategy. Frequently asked questions.

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Fisheries Research and Development Corporation.
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Draft Aboriginal Fishing Strategy
Frequently Asked Questions

“Recognising the past, fishing for the future”

Department of Fisheries
ATSIC
Fisheries Research and Development Corporation
Department of Indigenous Affairs
Introduction

This document is not the draft Aboriginal Fishing Strategy report, but a summary of the most frequently asked questions about the draft report. Submissions should only be made on specific recommendations found in the draft report.

Copies of the full draft report and how to make a submission are available at www.fish.wa.gov.au, or by contacting the Department of Fisheries on (08) 9482 7333. Submissions to the draft Aboriginal Fishing Strategy report close 28 November 2003.

What is the Aboriginal Fishing Strategy about?

The objectives of the Aboriginal Fishing Strategy are generally threefold:

1. To better recognise and include customary fishing in fisheries legislation and policy;
2. To enhance opportunities for Aboriginal people to have input into fisheries management processes; and
3. To facilitate economic development opportunities for Aboriginal interests in commercial fishing, aquaculture and aquatic tourism industries.

Who developed the draft Aboriginal Fishing Strategy report?

The draft Aboriginal Fishing Strategy is the result of extensive input from Aboriginal individuals, communities and organisations throughout WA and was developed by the Hon E.M. Franklyn QC, with the assistance of a working group comprising of Aboriginal, fishing sector, conservation and Government representatives. The draft report is not Government policy.

The Minister for Fisheries approved the release of the draft report in order to open the debate on Aboriginal fishing issues and provide an opportunity for the public to contribute ideas and views on how Aboriginal fishing should be recognised and included in the management of fish resources in Western Australia.

After public consultation finishes (28 November 2003) a final report will be developed based on the outcomes of consultation and forwarded to the Minister for his consideration.

What are the key principles of the Aboriginal Fishing Strategy?

- Sustainability and biodiversity objectives are paramount. The recognition of Aboriginal fishing rights and practices does not exceed the obligation to protect fish for future generations.

- Aboriginal people have continuing rights and responsibilities as the first people of Western Australia, including traditional ownership and connection to land and waters.
• Strategies must be consistent with the objects of the *Fish Resources Management Act 1994, Pearling Act 1990* and the *Native Title Act 1993*.

• Strategies must be consistent with a holistic, integrated approach to fisheries management and be accountable within an Ecologically Sustainable Development (ESD) reporting framework.

• Strategies must be practical and able to be implemented within the existing legal, political and social structures of Western Australia.

**What is customary fishing?**

The draft report identifies customary fishing as applying to:

• persons of Aboriginal descent;
• who are fishing for the purpose of satisfying personal, domestic, ceremonial, educational or non-commercial communal needs; and
• who are accepted by the Aboriginal community in the area being fished as having a right to fish in accordance with Aboriginal tradition.

**Is customary fishing different to other forms of fishing?**

The draft Aboriginal Fishing Strategy argues that customary fishing is different to that of commercial or recreational fishing because they are done for different reasons. The objectives of commercial fishing are economic. The objectives of recreational fishing, according to the national recreational fishing ethic, are “to catch a feed for one’s self and one’s family and for a variety of reasons enjoy the experience along the way”. Customary fishing is undertaken as a means to obtain food, as a medium to educate successive generations about cultural lore and information, as an essential part of many ceremonial and cultural events, and as an intrinsic part of Aboriginal people’s identity and culture.

It is important to note that fisheries legislation in Western Australia has always recognised customary fishing by Aboriginal people as different to commercial and recreational fishing. In addition, federal legislation - the *Native Title Act 1993* (Commonwealth) also acknowledges the right of Aboriginal people to fish in accordance with native title, which can include customary fishing. Customary fishing is also recognised and protected under the *International Convention on Civil and Political Rights* and the *International Convention on Biological Diversity*.

**Should customary fishing have the same rules as recreational fishing?**

The draft report proposes that just as recreational and commercial fishing have some rules different to each other to meet their respective aims, customary fishing also requires some different rules.

The draft report recognises the common factor amongst commercial, recreational and customary fishing as being that they must all be subject to a sustainable fisheries management framework that ensures sustainable fishing practices.
Generally, what are the proposed differences between management arrangements for customary fishing and recreational fishing in the draft strategy?

What’s the same?

- the same rules apply to both customary and recreational fishing for species covered by recreational fishing licences (rock lobster, abalone, marron, trout).
- the same rules apply to both customary and recreational fishing when using efficient gear (eg set nets, boats over five metres and SCUBA).
- netting rules will be the same (eg areas closed to recreational netting will also be closed to customary netting).
- size limits, closed seasons, closed areas and protected species generally apply to customary fishing.
- gear and method restrictions generally apply to customary fishing.

What’s different?

- Mixed daily bag limits apply to customary fishing in the form of possession limits. This allows for customary obligations such as supplying fish for ceremonies or other cultural events without the need for permits, exemptions or other mechanisms that require administrative processes.
- Individual species bag limits do not apply to customary fishing.
- some “traditional” fishing methods such as spears and fish traps to be permitted to allow passing of cultural knowledge to successive generations.

What about isolated Aboriginal communities?

Isolated Aboriginal communities are generally located in areas where access to land can be controlled by Aboriginal interests, fishing pressure is low and there are fewer services and alternative food sources than in populated areas. The draft report recommends that for these areas, because there is little threat of overfishing and fish are often a key food source, that customary fishing rules reflect existing customary fishing practice in those areas.

The main differences proposed are the removal of size limit restrictions, but with a strong emphasis on education about size limits, and the allowance of traditional fishing methods such as fish traps and poisons.

Are there other options?

Members of the public that do not agree with draft recommendations are encouraged to provide alternative options, including reasons. Some alternatives for managing customary fishing, including potential benefits and downfalls, are discussed in the
As an example, one option is to recognise customary fishing as separate to recreational fishing, but manage both fishing activities under the same rules, and include a notification system for specific customary fishing activities or events that require fishing outside day-to-day customary fishing management arrangements.

**Should customary fishing be limited to using "traditional" fishing methods?**

The draft report recommends that customary fishing should not be constrained to the use of “traditional” fishing gear, because just as recreational and commercial fishing continues to evolve and benefit from the introduction of technology, Aboriginal cultures and fishing practices are also evolving and adopting introduced technologies. The draft report identifies customary fishing as being about the intent of the activity, not how it is done. However, the draft report recognises the use of “traditional” or adopted fishing methods that increase fishing efficiency (eg set nets or traditional fish traps) or are unsustainable (eg explosives) must be managed or prohibited accordingly to ensure sustainable fishing practices. For example, the draft report recommends that when efficient fishing methods such as set nets are used for customary fishing, recreational fishing rules should apply.

**How would Fisheries Officers identify to whom customary fishing applies – and prevent people falsely claiming customary fishing as a right?**

The draft report recommends the powers of Fisheries Officers be extended to require a person claiming customary fishing to provide, upon the request of a Fisheries Officer, information regarding contact details of an Aboriginal community organisation that can vouch for that person’s claim. Refusing to provide that information, or providing false information, would be an offence under fisheries legislation.

**Are there any risks to overfishing from customary fishing?**

Under the draft report’s proposals, the majority of rules that apply to recreational fishing will continue to apply to customary fishing. In addition, Aboriginal people make up approximately three per cent of the population and there are no current known threats to sustainability from Aboriginal fishing activity. The draft report recommends that if at any time any fish species become threatened as a result of customary fishing, customary fishing management arrangements will be reviewed to ensure sustainable fish stocks.

**Why doesn’t the draft report cover turtles and dugongs?**

The Aboriginal Fishing Strategy terms of reference were limited to fish – as defined under the *Fish Resources Management Act 1994* and the *Pearling Act 1990*. Turtles and dugong are not fish and are not covered by fisheries legislation. Hunting for turtles and dugong is managed under the *Conservation and Land Management Act 1984*. 