

The New South Wales Aboriginal Land Council's
Submission to Department of Primary Industries –
Discussion Paper – Cultural Fishing in NSW.



REEL CULTURAL FISHING RIGHTS

JULY 2009



New South Wales
Aboriginal Land Council

www.alc.org.au

Prepared by the NSWALC's Land Policy and Research Unit
and Operational Policy Unit.

For more information about this submission contact the
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Copies of this NSWALC submission can be downloaded
from www.alc.org.au



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Introduction

This submission details the NSW Aboriginal Land Council's (NSWALC's) response to the discussion paper developed by the NSW Department of Primary Industries (DPI) titled *Cultural Fishing in NSW*. [Appendix A]

Through this submission the NSWALC will also fulfil its statutory policy and advice function to advise the Minister of Aboriginal Affairs under section 106 4(a) of the *Aboriginal Land Rights Act 1983 (NSW)*.

Also this submission is forwarded in response to point 3 of the 'Close the Gap – Indigenous Health Equality Summit – Statement of Intent' between the Australian Government and the Aboriginal and Torres Strait Islander Peoples of Australia, which is to “ensure full participation of **Aboriginal and Torres Strait Islander peoples and their representative bodies** in all aspects of health needs” (March 2008).

This is extremely pertinent as cultural fishing practices are an integral part of cultural, spiritual, mental and physical well-being.

The NSWALC is the peak body representing Aboriginal people in NSW. The NSWALC is a self-funded statutory authority established under the NSW *Aboriginal Land Rights Act (ALRA)*. NSWALC is tasked through section 105 of the ALRA to “improve, protect and foster the best interests of Aboriginal persons within New South Wales.”

The NSWALC is committed to promoting the traditional cultural rights of Aboriginal people in NSW and has highlighted this through the following priorities stated in the *NSW Aboriginal Land Council Corporate Plan 2008 – 2012*:

- i. Seeking to influence policy and reform agendas of the NSW and Commonwealth governments through leadership and reliable evidence based advice and research;¹
- ii. Continuing to provide advocacy and support in attaining and upholding fundamental human rights for Aboriginal people both nationally and internationally;² and
- iii. Developing guidelines that identify protect and preserve cultural heritage in accordance with the traditional customs, obligations and responsibilities of individual Traditional Owner groups throughout NSW.³

The NSWALC therefore welcomes the development of strategies to improve conditions for the Aboriginal cultural fisher in NSW.

The Discussion Paper

The discussion paper 'Cultural Fishing in NSW' was released May 2009. The DPI has noted within the paper, the importance that cultural fishing has to Aboriginal communities. Despite this importance the DPI also highlights that the *Fisheries Management Act NSW 1994* "does not specifically recognise or provide for cultural fishing."⁴

The discussion paper addresses two areas of proposed amendment to the *Fisheries Management Act NSW 1994*:

AMENDMENT 1: The inclusion of a definition of cultural fishing. The draft definition reads:

"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."

AMENDMENT 2: Willingness to streamline the process of obtaining a section 37 – 'Taking Fish for Aboriginal Cultural or Ceremonial Use Permit Application.' [Appendix B] This is a result of issues raised by the community on the amount and type of information that they are required to provide on the application.

Some community concerns are:

- Too much information is required on the form;
- The exact date of fishing may not be known at the time of application as weather and sea conditions vary;
- The process is complicated and slow;
- There is a lack of awareness, and or resistance to apply for a permit; and
- Fisheries officers must be advised before fishing takes place.

While these two amendments are legitimate areas that need to be addressed within the legislation, making amendments to only these two areas would fall dramatically short of what is required in the ideal paradigm of Aboriginal cultural fishing.

Background

Aboriginal people have a spiritual, social and customary association with fisheries resources. Aboriginal community members have continued their tradition of fishing consistent with their cultural beliefs, which fundamentally include customary sustainable fishing parameters.

It is crucial to Aboriginal culture that this connection be maintained for present and future generations as it is imperative to spiritual, mental and physical well-being. This would not only assist to sustain one of the world's oldest cultures, but to also gain momentum with the Council of Australian Government's (COAG) targets in 'Closing the Gap' in Indigenous health equality.

It has been a long standing concern amongst the Aboriginal community that cultural fishing has not been adequately recognised by NSW legislation.

The Aboriginal fisher is currently categorised within the *Fisheries Management Act (NSW) 1994*, as either a 'Recreational' fisher or a 'Commercial' fisher. These two categories are subject to varying limitations on catch size, catch type, equipment used and take zones. Cultural fishing is often not carried out within these parameters, as it is community spirited and traditionally provides for extended families and other community members. In these cases the cultural fisher, due to the size of the catch required to fulfil communal needs, find themselves in direct conflict with legislation as they are deemed to be engaged in unlicensed commercial fishing.

This has led to the prosecution of Aboriginal fishers for conducting practices outside of the Act.

Aboriginal Cultural Fishing

The DPI has recognised the need to define Aboriginal cultural fishing and have this definition added to the Act. The draft definition of Aboriginal cultural fishing that appears in the discussion paper is supported by the NSWALC.

The addition of a cultural fishing definition to the Act will provide a legislative identity for the cultural fisher. However, this definition alone does not provide protections to the Aboriginal cultural fisher.

The only current legislative instruments offered to support this definition; i.e. section 37 permits, suggest that the DPI's interpretation of Aboriginal cultural fishing will not extend beyond the Aboriginal fisher participating in the larger community gatherings that are yearly calendar events.

There needs to be freedoms afforded to the Aboriginal fisher for traditional methods of subsistence to be practiced by the *Aboriginal Subsistence Fisher*.

Aboriginal Subsistence Fisher

It is strongly recommended by the NSWALC to add a third category of fisher to the *Fisheries Management Act NSW 1994* – the Aboriginal Subsistence Fisher. The Aboriginal Subsistence Fisher should be afforded the freedom to gather fish for their family, Elders and guests consistent with traditional practices of everyday subsistence.

Concerns have been raised for the inclusion of the Elders and others in the community that are incapacitated and incapable of collecting their own fish, or travel to a designated area for fish consumption within the stipulations of the Act. The incapacitated community members need to maintain their cultural connection with the resource for spiritual and dietary reasons, having a direct impact on the Council of Australian Governments (COAG's) goals on 'Closing the Gap'. They can not be expected to provide their own catch, nor should they be expected to miss out on their fish intake.

Able Aboriginal fishers need to have the freedom of an increased allocation to provide for the incapacitated. Currently the Aboriginal fisher has to comply with the recreational bag limits which do not allow sufficient quantities to provide for the Elders and incapacitated.

In addition to this, Aboriginal communities need the freedom within the legislation to conduct barter on a small scale using fish as a unit of currency. This includes receiving small amounts of money in return for the provision of fish, without the label of commercial fishing. This is also consistent with traditional fishing practices.

At the Gosford consultation on the 16th June 2009 the DPI commented that there is scope for an option of small scale domestic use for Aboriginal communities that allowed limited freedom from the permit system.

In relation to the current 'Recreational' bag and possession limits that the Aboriginal fisher is currently subject to the DPI said at the same meeting that there would be little risk to the resource's sustainability in freeing up some of the number in these limits, given that the Aboriginal fisher represents a maximum of around 2% of the NSW population.

In other words being a small percentage of the NSW population, there would be very little impact on the fisheries resource to allow for a small increase to the Aboriginal Recreational Fisher's catch/bag limits.

SPECIAL NOTE: A word on 'tradition'

It must be noted that the use of the words 'tradition' and 'traditional' should not be strictly determined by fishing and other cultural practices, methods, materials and systems employed by Aboriginal people prior to European interaction. As the words imply and indeed mean, 'traditions' and 'traditional' are ongoing and move through time as they are passed down through culture. Consequently traditions can be adapted to contemporary settings and contexts over the past two hundred and twenty one years.

The use of new materials and methods (e.g. nylon wire and netting, drum nets, motor boats etc) does not diminish the 'tradition' and 'traditional' **purpose** and **intent** of fishing in Aboriginal culture, which is to provide food, celebrate events and trade in and between Aboriginal communities.⁵

Key Recommendation

1. That the NSW Government through the DPI, delineate between 'Aboriginal Cultural Fishing' and the 'Aboriginal Subsistence Fisher'.

Key Recommendation

2. That both 'Cultural Fishing' and the 'Aboriginal Subsistence Fisher' are defined and these definitions are written into the NSW *Fisheries Management Act (NSW) 1994*.

Key Recommendation

3. That the 'Aboriginal Subsistence Fisher' is written into the NSW *Fisheries Management Act (NSW) 1994* as a class of fisher, separate to the recreational and commercial fisher.

Key Recommendation

4. That the 'Aboriginal Subsistence Fisher' is afforded the freedom to continue to practice the craft of fishing in a traditional manner consistent with Aboriginal culture.

Amendments to Section 37 Permit Process

The process of providing a permit under section 37 of the *Fisheries Management Act 1994 (NSW)* has been met with some resistance by the community for various reasons.

The decision by the DPI to review and amend the process to be more streamlined is necessary to meet the required level of Aboriginal community participation.

The NSWALC believes that it is necessary to identify the cultural events that are permanent calendar events celebrated annually. These events need to be recognised with standing permits granted.

The Aboriginal community has also raised that there may be an avenue to deal with offenders under section 37 of the Act, through 'Circle Sentencing'.

The NSWALC acknowledges this as a consideration, however would like to undertake further research on this option before it can definitively recommend circle sentencing as a means of dealing with offenders.

Key Recommendation

5. Standing Permits to be granted for cultural events that are permanent calendar events.

Cultural Fishing Protections in other Jurisdictions

Scott Hawkins addresses in his 2004 publication titled *Caught Hook, Line and Sinker* the protections afforded to Aboriginal cultural fishing in jurisdictions outside of NSW. Hawkins breaks down the relevant legislation state by state and the resulting comparisons are still valid today.

In the Northern Territory, cultural fishing has been recognised and has been provided freedoms to continue without concessions, provided that the cultural fisher does not interfere with another party's catch or equipment.⁶

This is afforded through section 53 of the *Fisheries Act (NT)* which states:

- (1) Unless and to the extent to which it is expressed to do so but without derogating from any other law in force in the Territory, nothing in a provision of this Act or an instrument of a judicial or administrative character made under it shall limit the right of Aboriginals who have traditionally used the resources of an area of land or water in a traditional manner from continuing to use those resources in that area in that manner.
- (2) Nothing in subsection (1) shall authorise a person to enter any area used for aquaculture, to interfere with or remove fish or aquatic life from fishing gear that is the property of another person, or to engage in a commercial activity.⁷

Tasmania has also afforded similar protections for the Aboriginal cultural fisher through the *Living Marine Resources Management Act 1995*. Section 60 (2c) provides an exemption for Aboriginal fishers from requiring a fishing licence when engaging in an Aboriginal activity.

The *Living Marine Resources Management Act 1995* also states that:

In any proceedings for an offence under this Act, the onus of proving any of the following statements is on the person making the statement:

- (a) that at the time of the alleged offence a person was exempted from the relevant provision of the Act relating to that offence;
- (b) that the person –
 - (i) is an Aborigine; and
 - (ii) at the time of the alleged offence was engaged in an Aboriginal activity;
- (c) that a person, vessel or thing referred to in the complaint was not in State waters;
- (d) that fish were taken from waters other than State waters;
- (e) that an activity occurred in waters other than State waters.⁸

The Western Australian Government in its Aboriginal Fishing Strategy that it devised in 2003 recognised that:

Sharing of fish is important socially and communally. Catches of fish are shared among the family, extended family and others who are not able to fish for themselves, such as the elderly. Sharing often extends to barter and exchange of fish for other items, such as other food sources within Aboriginal communities.⁹

There have also been some gains in cultural fishing rights internationally. Indigenous communities in both Canada and New Zealand have successfully negotiated cultural fishing protections. It is acknowledged that these negotiations have been largely achieved through treaty with their government.

Even though the Aboriginal community in NSW does not have a treaty, it does not mean that the same protections are unachievable, as the freedoms afforded to the Indigenous communities in Canada and New Zealand are founded on the basis of human rights.¹⁰

In summary, the underlying messages are; that these protections to cultural fishing rights are achievable and that cultural fishing can coexist in societies with large commercial and recreational fishing sectors.

Aboriginal Traditional and Cultural Rights

Indigenous cultural and traditional practices are protected, conserved and encouraged globally through the United Nations (UN) *Declaration of Rights of Indigenous Peoples (2007)* (DoRIP).

On the 3rd of April 2009, the Rudd Government officially endorsed the DoRIP. Through this endorsement, the Government has gestured that the principles within this document are principles that are valued and supported. These principles should be at the forefront when drafting, reviewing and amending any piece of legislation and government policy.

Many of the articles of the DoRIP have particular relevance to the rights of Aboriginal people in relation to the fisheries resource.

Articles 5 and 11 detail the universal right of Indigenous people to practice and maintain cultural traditions and institutions.

Article 12 specifies the right to manifest, practice, develop and teach traditions, customs and ceremonies.

Importantly it is stated within Article 25 that:

Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities in the implementation of this Declaration.¹¹

These articles highlight the need for the cultural fishing traditions and practices to be protected and maintained primarily through the addition of the Aboriginal Subsistence fisher profile to the *Fisheries Management Act 1994 (NSW)*.

The freedoms of an increased take for an Aboriginal subsistence fisher will not only provide consistency of tradition, but will afford many communities represented in the low socio-economic bracket a greater chance to subsidise their diet with a nutritious food source that may be otherwise unattainable, which will assist the desired outcomes of COAG's 'Closing the Gap' goals in Aboriginal health.

Unfortunately, community members undertaking this practice in the past have become subject of prosecution. Consistent with the NSWALC's view on the addition of the Aboriginal subsistence fisher to the legislation and consistent with the United Nations articles of basic Indigenous Rights, it is strongly recommended that once the parameters of the Aboriginal Subsistence Fisher are established, the Aboriginal fishers that have been convicted of offences within these parameters in the past, have their offences overturned.

Key Recommendation

6. It is strongly recommended that once the parameters of the Aboriginal Subsistence Fisher are established, the Aboriginal fishers that have been convicted of offences within these parameters in the past have their offences overturned.

Interaction between the Aboriginal community and the fisheries resource has a history spanning at least forty thousand years. With such a vast history, it is obvious that sustainability of the resource has been a primary objective. This is intrinsic to all traditional hunting and gathering practices within Aboriginal culture and the benefits of this knowledge and practices should never be questioned.

Convictions under *Fisheries Management Act 1994 (NSW)*

Currently the DPI does not establish whether or not an alleged offender under the *Fisheries Management Act* is an Aboriginal person.

The NSWALC has some serious concerns with this process.

The NSWALC recommends that the DPI undertake changes to have this information established, as it is imperative to ascertain the differentiation of this data for the purpose of evidence based policy.

NSWALC's Commitment to Fisheries Resource Research

The NSWALC is committed to pursue its research on Aboriginal interaction with the fisheries resource in NSW. The NSWALC believes that there are many avenues to be explored surrounding Aboriginal involvement in fishing statewide.

Some areas of Aboriginal involvement that the NSWALC intends to research are:

- Capacity building
- Marine Park Ranching
- Habitat management
- Stock enhancement programs
- Employment
- Graduate positions within the industry

The NSWALC will continue these studies consistent with its Corporate Plan and would welcome collaborative involvement with the DPI to explore some options that we believe exist for greater Aboriginal participation in the NSW fishing sectors.

More information

For more information about this submission contact the Land, Policy and Research Unit of the NSW Aboriginal Land Council on phone 02 9689 4444.

Endnotes

- 1 *Corporate Priority 1.2*, NSW Aboriginal Land Council Corporate Plan 2008 - 2012
- 2 *Corporate Priority 1.3*, NSW Aboriginal Land Council Corporate Plan 2008 - 2012
- 3 *Corporate Priority 5.2*, NSW Aboriginal Land Council Corporate Plan 2008 - 2012
- 4 *NSW Department of Primary Industries 2009*, Cultural Fishing in NSW
- 5 The NSW Aboriginal Land Council, *Indigenous Fisheries Strategy Recommendations*, September 2002 - NSWALC (2002)
- 6 *Hawkins, Scott 2004: Caught Hook, Line and Sinker - Aboriginal Justice Advisory Committee (AJAC)*
- 7 *Section 53*, Fisheries Act (NT)
- 8 *Section 215*, Living Marine Resources Management Act 1995(Tas)
- 9 *p. 26, Aboriginal Fishing Strategy: Recognising the Past, Fishing for the Future – Western Australia Government (2003)*
- 10 *Hawkins, Scott 2004: Caught Hook, Line and Sinker - Aboriginal Justice Advisory Committee (AJAC)*
- 11 *Article 25, United Nations Declaration of the Rights of Indigenous Peoples (2007)*

Cultural Fishing in NSW

May 2009

Introduction

Many Aboriginal people have as part of their culture, strong spiritual, social and customary associations with fisheries resources. It is important that Aboriginal people are able to continue this association, maintain their knowledge and pass on within their own communities and, to future generations.

With increasing population and greater pressure on the marine environment, Government regulation of fishing activity has been necessary to maintain sustainable use of our fisheries resource. This regulation has also impacted on Aboriginal communities continuing aspects of traditional fishing practise.

The *Fisheries Management Act 1994* provides the framework by which fish may be harvested. Currently, the Act does not specifically recognise or provide for cultural fishing. Section 37 of the Act has however allowed for the issue of a special permit for activities such as cultural fishing that may otherwise be defined as "unauthorised". The NSW government has used these provisions, amongst other things to enable Aboriginal people to take fish outside the rules of commercial and recreational fishing to satisfy cultural needs.

The lack of specific recognition of Aboriginal peoples' cultural fishing needs and traditions by the Act has long been acknowledged and changes are underway. Amendments to the Act are being made that will specifically include a definition of cultural fishing, an objective to recognise cultural fishing and specific provision within section 37 that provides for cultural fishing. These changes will identify cultural fishing as a legitimate fishing activity in NSW.

With these amendments comes an opportunity to build on the actions and initiatives implemented under the NSW Indigenous Fisheries Strategy, particularly in relation to the issuing of permits under section 37 of the Act for cultural fishing.

A definition of cultural fishing

The following definition for Aboriginal cultural fishing has been drafted for inclusion in the Act:

"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."

Access for Cultural Fishing

Section 37 permits have been available to Aboriginal people for cultural fishing activities since the implementation of the Act in the early 1990s. However, applications have been sporadic and the application process challenging.

It is recognised that some Aboriginal people do not consider it necessary or "fair" that they should need to apply or be issued with a special permit to fish outside the current rules, an activity they consider a right.

It is important, however, that government and Aboriginal communities continue to work together to recognise and protect customary fishing rights and that they are integrated into current and future management frameworks.

Current process for issuing a section 37 permit

If Aboriginal people wish to take fish for cultural purposes outside the rules that apply to recreational fishers, for example, bag limits, closures, use of gear or legal sizes, they must apply for a special permit to be issued under section 37 of the *Fisheries Management Act 1994*.

The application form and process has changed over time following feedback from Aboriginal people and NSW Department of Primary Industries (NSW DPI) staff.



Appendix A

Currently:

- Forms are available on the internet – www.dpi.nsw.gov.au, from local Fisheries Offices or by contacting the NSW DPI Fisheries Business Services Unit
- NSW DPI staff are available to help complete this form
- Information required includes:
 - The name and addresses of the applicant and those who will be fishing
 - The organisation and the event for which the permit is sought
 - The location of the event
 - The number of people attending
 - The location of where fishing will occur
 - The species and quantities to be taken
 - The type of car that will be used to transport the fish to the event
 - Whether support has been given for the fishing activity by the traditional clans, custodians or Local Aboriginal Land Council where the fishing activity will occur
- Applications ideally should be submitted at least 3 weeks before the event.

Issues raised in relation to current process

A number of issues have been raised in relation to the current process:

- It has been suggested that too much information is required on the form
- The exact date of fishing may not be known at the time of application as weather and sea conditions are variable
- The process is complicated and slow
- There is lack of awareness of, or resistance to apply for a permit
- Fisheries Officers must be advised before fishing takes place

The requirement to provide information such as location and date of fishing, proposed harvest and fishers' names is important because:

- Information such as the number and size of fish being caught can be used to promote sustainable harvest by all user groups. More importantly, it ensures that the cultural catch is formally recognised when total allowable catches are set for commercial fisheries. If the cultural catch is not known, it is possible that the commercial catch may be over-allocated

- If compliance officers know the date and location of fishing activity, cultural fishing can be promoted and claims of illegal fishing easily refuted.

NSW DPI has also tried to improve the process by dealing directly with the applicant and by assisting with completion of the form. Generally applications are processed within a few days and if a change of date for fishing is required because of bad weather or other cultural commitments, a call to the local fisheries office can generally resolve the issue.

Opportunities to improve the process

Feedback is being sought through this paper on how the process can be refined further. Options that could be explored include:

- streamlining the process by identifying major cultural events in advance. This will allow more lead time for consultation and associated administration and distribution of the permit. Standing permits could be issued for these events.
- issuing permits to a community or elder to administer on behalf of the community. It would still however be important to notify NSW DPI when fishing was occurring and to provide harvest information.

It is proposed to make it easier to find the form on the NSW DPI web site and send forms to Land Councils for distribution. The local Fisheries Office and the Fisheries Business and Services Unit are available to assist with any enquiries.

To increase awareness of the availability of section 37 permits, a targeted advisory and education program could be initiated. It is proposed that staff from NSW DPI meet with local communities to talk about the permits in the first instance. Future articles in publications such as the Koori Mail and the production of a small flyer may also better inform communities and facilitate cultural activity.

What is the best way to get information to Aboriginal people about opportunities for cultural fishing that may be outside the current commercial or recreational fishing rules?

How can NSW DPI make it easier to get an application form and information?

What could be done to make the form easier to understand and complete?

Appendix A

Development of guidelines for cultural fishing

Aboriginal people can fish under commercial fishing rules (if they are licensed), recreational fishing rules or under special arrangements, linked to a cultural event. It is important that cultural fishing is distinguished from commercial or recreational fishing and that the recognition of cultural fishing is not exploited by those fishing illegally. An aim of the National Indigenous Fishing Principles, endorsed by the NSW Government, is to recognise and protect cultural fishing practises and to carry out those practises in accordance with Indigenous laws. Feedback on cultural practices is sought to inform guidelines and conditions that might be attached to a section 37 permit.

- What do you consider to be a cultural event?
- What are the major cultural events for your community?
- What indigenous laws should be taken into account for cultural fishing?
- Should only certain types of gear be used when fishing for cultural purposes?
- If "traditional" types of gear are used and there are no major sustainability issues, should size limits apply?
- What types of fish are/were typically caught by your community?
- What are reasonable quantities of fish for an event ie, how many abalone or lobster per person would be considered reasonable?
- Do your cultural events include the need for marine vegetation? If so what type and how much?
- Should a community organisation approve an application before it is sent to NSW DPI?
- What appeal options, if any should be available if an application for a permit is refused?
- What options, if any should be available for 3rd party appeals if an application is approved but not supported by another community member?
- What type of penalty should be imposed on those who do not fish in accordance with the cultural access arrangements and who should impose these penalties?

Where to from here?

Feedback from Aboriginal people and communities is sought. You can send in a written submission or attend one of the proposed meetings to talk about these issues. Advice from submissions and the meetings will be used to formulate the

revised guidelines for cultural fishing in NSW.

If you would like to make a written submission please send it to:

Cultural Fishing
PO Box 21
CRONULLA 2230
or fax: 02 9527 8558
or email: cultural.fishing@dpi.nsw.gov.au

Submission close **30 June 2009**

Meetings will be held at the following locations:

Location	Dates	Venue
Batemans Bay	12 May 9.30 am	BB Rugby Club. Hanging Rock Oval. Beach Road Catalina
Wagga Wagga	13 May 2.30 pm	DPI Offices Pine Gully Road Wagga Wagga
Coffs Harbour	25 May 9.30 am	Marine Science Centre, Bay Drive Charlesworth Bay (opp Novotel)
Dubbo	26 May 12.00 pm	Carlton House, 212 Darling Street Dubbo
Gosford	16 June 11 am	Suites 36-38, 207 Albany Street North, Gosford NSW

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Disclaimer: The information contained in this publication is based on knowledge and understanding at the time of writing (April 2009). However, because of advances in knowledge, users are reminded of the need to ensure that information upon which they rely is up to date and to check currency of the information with the appropriate officer of New South Wales Department of Primary Industries or the user's independent adviser.

File reference INT09/14835

Appendix B



TAKING FISH FOR ABORIGINAL CULTURAL OR CEREMONIAL USE PERMIT APPLICATION

Fisheries Management Act 1994

Office Use Only INW...../...../.....

A permit issued under Section 37 provides for approval and coordination of taking fish for Aboriginal cultural and ceremonial events. This includes taking and possession of fish above recreational bag limits for non-commercial needs.

Persons making this application or any fishing under the proposed permit must be by an Aboriginal person. An Aboriginal Person is defined as a person who:

- Is a descendant of an Indigenous inhabitant of Australia, and
- Identifies as an Aboriginal, and
- Is recognised as Aboriginal by members of the Aboriginal community in which he or she lives.

You may be required to provide supporting information (in writing) from a recognised Aboriginal organisation or group. Such an organisation could be an Aboriginal association incorporated under Part IV of the Commonwealth Aboriginal Councils and Associations Act 1973 or equivalent NSW legislation; or an incorporated community organisation where the governing body comprises Aboriginal persons.

To avoid delays or refusal, this form should be completed in full with supporting information and contact details attached. It is important that all information is provided, as any change in dates, species, location or people involved in the collection may affect the conditions of the permit or render the permit invalid.

Applications are considered on merit and the issue of a permit is not guaranteed. Factors considered include cultural interests, the proposed fishing method/s, quantities of fish and sustainability of the resource. Please allow up to three weeks for the processing of the application.

1. APPLICANT DETAILS

Applicant's full name:
(contact person)

Are you an Aboriginal Yes No Date of birth:

Applicant's home address:

Applicant's postal address:
(Insert 'As above' if same as home address)

Contact phone numbers: Home: Office:
Mobile:

On behalf of (Organisation):

Appendix B

Name, date of birth and current address of **ALL** persons who will be taking fish (only the persons nominated will be authorised on the permit). Attach a separate list if insufficient space.

FULL NAME	DATE OF BIRTH	RESIDENTIAL ADDRESS

List the make, model, colour and registration of any vehicle that will be used to transport live fish.

MAKE	MODEL	COLOUR	REGISTRATION NO.

2. APPLICATION DETAILS

Name/Reason for event being held:

Date/s of event: (date from – date to) Location of event:

Number of people expected to attend event: Date/s of proposed collection (date from – date to):

Areas of proposed fishing activity (please provide a map with the locations marked on it)

Please indicate your traditional connection to the area of proposed fishing:

I **have / have not** obtained support for this fishing activity in accordance with Aboriginal custom of the traditional clans, custodians or local Aboriginal Land Council from the area where fishing will be undertaken. (Please delete whichever is not applicable and attach any relevant supporting documents).

3. SPECIES AND METHODS

Tick species to be taken and state number required of each species:

<input type="checkbox"/> Abalone	Quantity <input type="text"/>	<input type="checkbox"/> Cockles	Quantity <input type="text"/>
<input type="checkbox"/> Lobster	<input type="text"/>	<input type="checkbox"/> Mussels	<input type="text"/>
<input type="checkbox"/> Oysters	<input type="text"/>	<input type="checkbox"/> Fish (state type)	<input type="text"/>
<input type="checkbox"/> Pipsis	<input type="text"/>	<input type="checkbox"/> Other species (please state)	<input type="text"/>

