

FINAL REPORT

FRDC Project No 2014/233

Improving access for Indigenous Australians to, and involvement in, the use and management of Australia's fisheries resources



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October 2018

Lucille Schnierer

Warning for Aboriginal and Torres Strait Islanders

Please be aware that this report may contain the names or images of deceased people. C-AID Consultants strives to treat Indigenous culture and beliefs with respect. We acknowledge that to some communities it can be distressing and offensive to show images of people who are deceased

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Improving access for Indigenous Australian to, and involvement in, the use and management of Australia's fisheries resources.

Part 1: Audit of fisheries legislation, management, policy planning (Project Objective 1a, Phase 1).

Part 2: Case studies: Issue identification and risk assessments on Indigenous fisheries. (Project Objective 1b, Phase 2)

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The Fisheries Research and Development Corporation plans, invests in and manages fisheries research and development throughout Australia. It is a statutory authority within the portfolio of the federal Minister for Agriculture, Fisheries and Forestry, jointly funded by the Australian Government and the fishing industry.

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Glossary

Fisheries Agency	is a reference to a jurisdictions department with responsibility for managing fisheries
Jurisdiction	refers to the Commonwealth, State and Territories
Indigenous	refers to Aboriginal and Torres Strait Islander peoples
Aboriginal	refers to the Indigenous peoples of mainland Australia
Torres Strait Islanders	refers to the Indigenous peoples of the Torres Strait Islands

Abbreviations

Acronym	Details
ACL	Aboriginal Coastal License
AFAC	Aboriginal Fishing Advisory Committee
AFMA	Australian Fisheries Management Authority
AFMF	Australian Fisheries Management Forum
AFS	Aboriginal Fisheries Strategy Vic
AFT	Aboriginal Fishing Trust
ALC	Aboriginal Land Council
ARAA	Aquatic Resources Management Act 2016 WA
CBD	Convention on Biological Diversity
CFAC	Commercial Fishing Advisory Council
CFP	Customary Fishing Policy
CZI	Coastal Zone Inquiry
DEE	Department of the Environment and Energy
EBFM	Ecosystem Based Fisheries Management
EPBC	Environment Protection and Biodiversity Conservation
ESD	Ecologically Sustainable Development
F(G&F)R	Fisheries (General and Fees) Regulations 2016 Tas
FA	Fisheries Act NT
FA	Fisheries Act 1994 Qld
FA	Fisheries Act 1995 Vic
FAA	Fisheries Administration Act 1991
FAO	Food and Agricultural Organisation
FM(G)R	Fisheries Management (General) Regulation 2010 NSW
FM(G)R	Fisheries Management (General) Regulations 2017 SA
FMA	Commonwealth Fisheries Management Act 1991
FMA	Fisheries Management Act 1994 NSW
FMA	Fisheries Management Act 2007 SA
FMP	Fishery Management Plan
FMR	Fisheries Management Regulations 1992
FMS	Fishery Management Strategy
FMS	Fisheries Management Strategies
FR	Fisheries Regulations NT
FR	Fisheries Regulation 2008 Qld
FR	Fisheries Regulation 2009 Vic
FRDC	Fisheries Research and Development Corporation
FRMR	Fish Resources Management Regulations 1995 WA
IAC	Indigenous Advisory Committee

Acronym	Details
ICW	Indigenous Community Wellbeing
ICWT	ICW component tree
IFA	Inland Fisheries Act 1995 Tas
IFK	Indigenous fisheries knowledge, =
IFM	Indigenous Fisheries Management)
IFP	Indigenous Fishing Permit Qld
IFS	Indigenous Fisheries Strategy and Implementation Plan NSW
ILUA	Indigenous Land Use Agreement
IRG	Indigenous Reference Group
LMRMA	Living Marine Resources Management Act 1995 Tas
MFAC	Ministerial Fisheries Advisory Council
NIFTWG	National Indigenous Fishing Technical Working Group
NTA	Native Title Act 1993
PSC	Project Steering Committee
QFMA	Queensland Fisheries Management Authority
RAC	Resource Assessment Commission
TEK	Traditional Ecological Knowledge
TFK	Traditional Fishing Knowledge
TFM	Traditional Fishing Management
TOG	Traditional Owner Groups
TSFA	Torres Strait Fisheries Act 1984
TSFR	Torres Strait Fisheries Regulation 1985
UIC	Unique Identifying Code
VFAA	Victorian Fisheries Authority Act 2016

Executive Summary

This report provides details of the FRDC Project 2014-233 *Improving access for Indigenous Australians to and involvement in the use and management of Australia's fisheries resources*. The project was undertaken because Aboriginal and Torres Strait Islander people continue to assert that their rightful place in the use and management of fisheries resources is yet to reach a level that would enable them to meet their cultural, social and economic needs.

Some key issues underpinning this perception were identified by Indigenous fishers at a national workshop supported by the Fisheries Research and Development Corporation (FRDC) held in Cairns 2011. Two specific issues identified in Cairns were the basis for this project, they included the need to identify barriers and opportunities for Indigenous fisheries within legislation and policy and the need to address non-indigenous impacts on Indigenous fisheries. This project comprised two phases addressing two objectives based on these two issues.

Phase 1 of the project centred on the first objective, to audit as many fisheries related documents (legislation, policy, management strategies and plans) so as to develop a picture of how Indigenous fisheries are addressed within these documents.

Phase 2 of the project focussed on the second objective which was to trial a methodology for conducting a risk assessment of the potential impacts of non-indigenous fisheries on Indigenous cultural fishing.

The methodology for Phase 1 involved a desktop audit of legislation, policy and management strategies for each fisheries jurisdiction in Australia. Relevant documents were located on the internet and electronic copies obtained. Each document was scanned for references to Indigenous fisheries by searching for the words Indigenous, Aboriginal, Torres Strait, Traditional, Customary and Native. The text around the key word was then examined to ascertain whether it contained detail on specific issue relating to Indigenous fisheries. For guidance on relevance, the research team compared each reference to the each of the seven Indigenous fishing principles developed by the National Indigenous Fishing Technical Working Group (NIFTWG) in 2004. This process was subjective and required the researcher to understand the intent of each NIFTWG principle and the intent of the reference detected in the documents reviewed.

The audit process successfully located 669 fisheries related documents including 21 pieces of legislation, 56 fisheries policy documents, 148 fisheries plans and strategies, and 444 fisheries agency Ecologically Sustainable Development (ESD) submissions covering 142 commercial fisheries across all jurisdictions. The audit revealed varying degrees of inclusion of the NIFTWG principles in fisheries legislation, policy, management and strategies across Commonwealth, State and Territory jurisdictions. This inclusion varied from all seven principles being addressed in approximately 4% of documents to none addressed in 53% of documents.

The NIFTWG Principles proved a useful guide for reviewing fisheries related documents but for any future process they will need to be reviewed to include specific mention of the need

to protect Indigenous Traditional Fisheries Knowledge and the need to assess the impacts of non-indigenous fisheries on Indigenous cultural fishing practices.

It will take time for the outcomes to have an impact on end users such as fisheries managers. However, there has already been some uptake of information from the project into fisheries decision making spaces. This has been achieved through information from the audit being provided to a number of governmental reviews and inquiries over the past 3 years. For Indigenous end users' findings from this section of the project will be communicated through a recently commenced FRDC project 2017-069 in the form of educational content and key messages developed through a new project the FRDC Indigenous Reference Group (IRG) is supporting to commence in 2019 ('Identify and synthesizing key messages from IRG projects'). From Phase 1 of the project the research team recommends the development of a more comprehensive set of national Indigenous fishing principles to further guide the development, implementation and monitoring of Indigenous fisheries policy across all jurisdictions. The team also recommends the inclusion in all fisheries acts, across all jurisdictions, of an objective that specifically addresses Indigenous cultural fishing, provisions for the establishment of Indigenous fisheries advisory committees, the inclusion of provisions to identify, measure and address impacts of non-indigenous fisheries on Indigenous fisheries and provisions to protect and enhance Traditional Fishing Knowledge (TFK). The research team also recommends a review of the Commonwealth's ESD guidelines to include a requirement for the assessment of the impacts of non-Indigenous fisheries on Indigenous cultural fishing

The aim of Phase 2 of this project was to run a series of case study workshops for Indigenous fishing communities to test a methodology for making risk assessments of fisheries that was developed by Fletcher et al 2002. This methodology was used to assess the potential risks posed by non-indigenous fisheries on Indigenous cultural fisheries.

Four case study workshops were conducted, one national and three regional. The workshops employed a two-way exchange of knowledge with researchers collecting data and at the same time providing information on risk assessment methodology and other fisheries management issues to workshop participants – a two-way process. Each workshop ran over two days. Regional workshops took place on the south coast of NSW encompassing the Yuin people, North Stradbroke Island, encompassing the Quandamooka-Yoolooburrabee people and the last with Torres Strait Islanders on Horn Island.

The workshops opened with a welcome to country given by traditional owners, followed by each participant introducing themselves and identifying two key issues relating to their fishery. This step acted as an 'icebreaker' and it immediately involved all participants in an interactive discussion that lead to the identification of values and issues. The second day started with an explanation of the concept of risk and how risk is assessed for the purposes of prioritising issues. Risk assessments were then conducted using consequence-likelihood tables for each of the key issues identified.

Participants in all three regional workshops struggled initially with the concept of 'risk' having two elements, 'consequence' and 'likelihood' and the rationale behind combining these to generate a 'risk value' and an associated 'risk ranking'. However, as participants became more familiar with the calculation process they were able to quickly assign risk

values. Note, the research team found that the risk or consequence level could vary for participants according to differing demographics.

For workshops conducted on the south coast of NSW and North Stradbroke all but one of the issues identified was given a risk ranking of 'extreme'. This contrasted with the Horn Island workshop results where approximately 50% of the issues were assigned risk ranking of 'Extreme'. Twenty-eight per cent fell into the 'High' ranking and 20% into the 'Moderate' ranking.

The high proportion of extreme risk rankings may appear to be skewed. Explanations for these rankings probably include the raised levels of animosity and anxiety that Indigenous participants have with respect to fisheries agencies and a feeling of disengagement and lack of acknowledgment of rights. Another possibility is that unfamiliarity with the process for assigning risk values through the consequence-likelihood table was such that participants preferred to err on the upper side of the ranking rather than the lower side. In all likelihood it was a combination of the two factors.

To ensure that this isn't the case facilitators need to spend more time questioning and seeking evidence for the consequence and likelihood of potential risks and/or gaining a better understanding of these factors. Independent evidence in support of risk value determinations made by participants, for many of the components, may be non-existent in quantitative form leaving a reliance on qualitative data or information. The research team feels that more case studies similar to the those reported in the project would build a stronger qualitative evidence base for community based risk value

At this stage the fact that the project focussed on trialling a methodology means that the impacts on end users are limited to the three communities and the facilitators engaged in the workshops. For the Indigenous participants one outcome was a better understanding of basic fisheries management methods as well as the risk assessment methodology. Another important outcome, for all three communities, was in using their workshop reports as a basis for submissions to other fisheries management related processes.

The project team recommends that at least three more regional workshops be conducted in other regions of Australia using the methodology employed in this project. The team also recommends that workshops of a related nature be expanded from two to three days to allow more time for capacity building with the participants. The team also recommends that the methodology with further improvement be adopted be used by all jurisdictions as a basis for future Indigenous risk assessments of fisheries management plans.

General Introduction

Aboriginal and Torres Strait Islander people continue to feel that their rightful place in the use and management of Australia's fisheries resources has yet to reach a level that would enable them to adequately meet their cultural, social and economic needs including their aspirations for self-determination. Some key issues underpinning this perception were identified by Indigenous fishers at a national workshop held in Cairns (the 'Cairns workshop' in March of 2011 and detailed in FRDC Project 2010/401 (Calogeras et al 2011).

These issues included, but were not limited to, perceptions that; Indigenous fisheries are not fully respected or acknowledged by non-indigenous stakeholders; existing fisheries policy, management and legal frameworks don't fully support Indigenous fishers; non-indigenous impacts on Indigenous fisheries is inadequate and; there is a lack of capacity within Indigenous communities to engage effectively in what is a rapidly evolving fisheries management environment.

Indigenous fishers believe that these issues continue to negatively impact their ability to fully participate in the use and management of Australia's fisheries resources, there by:

- Threatening their ability to maintain cultural fishing practices and in turn their Traditional Fishing Knowledge (practices protected by various international instruments and agreements).
- Reducing their access to fresh seafood resulting in dependence on less favoured and at times less healthy food options.
- Offering insufficient opportunities to build capacity and participate in fisheries management.
- Reducing opportunities to derive commercial benefits from a variety of fisheries resources
- Criminalizing cultural fishing practices that don't fit current 'Western' fisheries management approaches.

The general aim of this project was to begin research into some of these issues so as to better understand them and at the same time add to a growing Indigenous fisheries research base, which continues to be supported by the FRDC through project funding.

This project comprised two stages:

- Stage 1.** An audit of fisheries legislation and policy in relation to addressing Indigenous fishing rights and interests across fisheries jurisdictions.
- Stage 2.** Workshops on risk assessment of impacts on Indigenous fisheries using the ESD Risk Assessment framework developed by Fletcher et al 2002.

Need

The specific issues to be addressed in Stage 1 and 2 of this project were highlighted by participants at the 2011 Indigenous RD&E Cairns workshop and the need to examine them in more detail was included in a set of eleven research, development and extension principles for Indigenous fisheries (see Calogeras et al 2011). Those key principles included

two elements, the need to identify barriers and opportunities within policy and legislation and the need to address impacts on Indigenous fisheries.

Consultation

The genesis of this project was an outcome of consultations with Indigenous fishers and others who participated the Cairns workshop in 2011 as part of FRDC Project No. 2010/401. The project was also discussed with NSW Aboriginal Advisory Fishing Council and the NSW Aboriginal Land Council and each provided in principal support.

Discussion about the project also took place with members of the Indigenous Advisory Committee (IAC) which advises the Commonwealth Minister and the then Department of Sustainability, Environment, Water, Population and Communities on a range of environmental issues and in particular on the operation of the Environment Protection and Biodiversity Act 1999 (EPBC Act).

Discussions were had with the Director of Northern Territory Fisheries who at the time was the chair of the Australian Fisheries Management Forum (AFMF), on ways to ensure engagement between the project team and fishery agencies nationwide. This was achieved by the Chair forwarding information to members seeking their engagement in the process. In addition, a senior aquatic resource manager with NT fisheries was a co-investigator on the project to provide high-level fisheries management input during the evaluations. Dr Rick Fletcher also agreed to be a co-investigator in the project and his expertise in developing the National ESD Reporting Framework for Australian Fisheries.

Objectives

The Objective of this project was to review whether Indigenous fisheries 'issues' are addressed by fisheries management in Australia in relation to:

- a. Legislation, policy, management and reporting.
- b. The identification and risk assessment of impacts of non-indigenous fisheries on Indigenous fisheries.

Report Structure

This project was divided into two stages and each stage is presented in a separate section within the report. The titles of each of section are:

Section 1: Audit of fisheries legislation, policy, management and reporting (Project Objective 1a, Stage 1).

Section 2: Case studies: Issue identification and risk assessments for Indigenous fisheries. (Project Objective 1b, Stage 2)

Section 1: Audit of Fisheries Legislation, Policy and Management Strategies.

Introduction – Section 1

During the 2011 Indigenous RD&E Cairns forum among the many contributions made by participants was the perceived lack of legislative and policy support for Indigenous fisheries (*Calogeras et al 2011*). As a result of this, a recommendation was incorporated into the eleven research, development and extension principles document identifying the need for an audit of existing fisheries legislation, policy and strategies to see if Indigenous fisheries rights and interests were being addressed across various fisheries jurisdictions in Australia.

The intent of this stage of the project (Section 1) was to find as many relevant fisheries related documents available from the internet and direct from Fisheries agencies. The next step was to examine them for references to Indigenous fisheries and compare each reference with the seven Indigenous fishing principles released by the National Native Title Tribunal's NIFTWG in 2004 (National Native Title Tribunal 2004).

The NIFTWG was established following the *Indigenous Fishing Rights Conference* held in Perth in 2003. The working group comprised experts from Indigenous communities, the seafood industry, recreational fishing, native title, and state and federal government and the National Native Title Tribunal.

The NIFTWG principles, while non-binding, were designed to provide guidance for the development by government of fishing strategies for Indigenous Australians. The principles sought to encourage the recognition of Indigenous traditional fishing practices, to enhance Indigenous involvement in commercial fisheries related enterprises (commercial fishing, charter fishing and eco-tourism activities) and to encourage greater participation in fisheries management (see Table 1.1).

The NIFTWG principles had been preceded by a number of government inquiries and policy review and development processes in Australia stretching back twenty or so years (see for example Cordell, 1991, Ecologically Sustainable Development Working Groups, 1991, Jull, 1993, Law Reform Commission, 1986, Northern Territory University, 1993, Resource Assessment Commission, 1993, Commonwealth Department of Environment, 1995, Smyth, 1993, and Sutherland, 1996).

In particular, the Resource Assessment Commission Coastal Zone Inquiry (CZI) report in 1993 contained recommendations relating to Indigenous fisheries including the need to develop a National Aboriginal and Torres Strait Islander Fishery strategy. This strategy was to include elements relating to customary marine tenure and traditional fishing practices; impediments to indigenous people's participation in commercial fishing; the impact of commercial fishing on fishing for traditional purposes; representation of indigenous people on all fisheries advisory committees; measures to improve economic development and employment opportunities; and measures to improve relations between Indigenous communities, fisheries agency staff and commercial fishers.

At the international level there are a number of agreements (conventions and declarations) as well as guidelines which emphasise the rights and interests that Indigenous people have to access and manage biological resources such fish stocks (Appendix 1.1).

Notable among these are the United Nations Declaration on the Rights of Indigenous Peoples (Appendix 1.1, Table 1.1.1), the UN Food and Agricultural Organisations Code of Conduct for Responsible Fishing (Appendix 1.1, Table 1.1.2), Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication (Appendix 1.13, Table 1.1.3), the UN Convention on Biological Diversity (Appendix 1.1, Table 1.1.4), Voluntary guidelines for the conduct of cultural, environmental and social impact assessments regarding developments proposed to take place on, or which are likely to impact on, sacred sites and on lands and waters traditionally occupied or used by Indigenous and local communities (Appendix 1.1, Table 1.1.5) and UNCED Agenda 21 ((Appendix 1.1, Table 1.1.6).

Methodology – Section 1

A desktop audit of the ways in which Indigenous fisheries were addressed in legislation, policy and management strategies was undertaken for each fisheries jurisdiction in Australia. This involved a number of steps including locating the relevant documents, obtaining electronic copies and then reviewing them for Indigenous content. Documents were identified primarily by searching the internet with a focus on relevant government web sites, belonging to fisheries agencies. In addition, agencies were requested to provide any relevant links

Each document title was entered into a spread-sheet and sorted according to jurisdiction. The documents were examined to ascertain whether they contained any reference to Indigenous fisheries. This was achieved using a key word search of document using the following words; Indigenous, Aboriginal, Torres Strait, Traditional, Customary and Native.

Based on the searches, documents with references to Indigenous fisheries received a more in-depth screening process. The text around the key word was examined to ascertain whether it was simply a reference to another document (e.g. NRIFS 2003) or contained more detail as to the intent of the document in addressing a specific issue relating to Indigenous fisheries.

For guidance in assessing whether the identified document addressed key issues of concern for Indigenous fisheries the research team referred to seven principles developed by the National Indigenous Fishing Technical Working Group (See Table 1.1). This process was fairly subjective, requiring the researcher to understand the intent of each NIFTWG principle and the intent of the content of the reference detected in the documents being reviewed.

Table 1.1. Indigenous fisheries principles developed by the National Indigenous Fishing Technical Working Group (NIFTWG) in 2004.

Principle	Text
1	Indigenous people were the first custodians of Australia's marine and freshwater environments. Australia's fisheries and aquatic environment management strategies should respect and accommodate this.
2	Customary fishing is to be defined and incorporated by Governments into fisheries management regimes, so as to afford it protection.
3	Customary fishing is fishing in accordance with relevant Indigenous laws and customs for the purpose of satisfying personal, domestic or non-commercial communal needs. Specific frameworks for customary fishing may vary throughout Australia by reference, for example, to marine zones, fish species, Indigenous community locations and traditions or their access to land and water.
4	Recognition of customary fishing will translate, wherever possible, into a share in the overall allocation of sustainable managed fisheries.
5	In the allocation of marine and freshwater resources, the customary sector should be recognised as a sector in its own right, alongside recreational and commercial sectors, ideally within the context of future integrated fisheries management strategies.
6	Governments and other stakeholders will work together to, at minimum, implement assistance strategies to increase Indigenous participation in fisheries-related businesses, including the recreational and charter sectors.
7	Increased Indigenous participation in fisheries related businesses and fisheries management, together with related vocational development, must be expedited.

Results – Section 1

General

A total of 669 fisheries related documents were sourced using the internet, from all Commonwealth, State and Territory jurisdictions in Australia (Table 1.2). This included 21 pieces of legislation, 56 fisheries policy documents, 148 fisheries plans/strategies and 444 fisheries agency ESD submissions. The ESD submissions covered 142 commercial fisheries across all jurisdictions and as each fishery has been through a number of assessments since 2002.

Table 1.2: Numbers of fisheries related documents sourced from each jurisdiction.

Jurisdiction	Legislation	Policy	Plans/Strategies	ESD Submissions
Commonwealth	5	6	16	81
New South Wales	2	10	11	25
Northern	2	5	9	34
Queensland	2	5	15	87
South Australia	2	4	13	43
Tasmania	3	5	9	36
Victoria	3	6	23	32
Western Australia	2	15	52	106
Total	21	56	148	444

In compiling the data, the name of the source document and the text of each relevant reference to Indigenous fisheries was copied into two separate columns of a table and then a third column added containing space for each NIFTWG Principle to be entered, as potentially addressed or not addressed.

Owing to the size of these tables, some were placed into the appendices and summary versions made for the results section. The summarised versions contained two columns, one for the name of the document and a second indicating whether the document had addressed one or more of the NIFTWG principles. Those principles determined as being addressed were assigned a yellow square and if not, then a grey square.

This approach allows the reader to get a quick sense of the coverage of NIFTWG principles across numerous documents. More detail of the content of the summarised tables is available in the larger data tables in the relevant appendices.

Fisheries Legislation

Twenty-one pieces of legislation including acts and regulations relating to fisheries management were sourced from Commonwealth, State and Territory government web sites available as of the 1st of January 2018. The web addresses for the sites accessed included:

- <https://www.legislation.gov.au>
- <https://www.legislation.qld.gov.au>
- <https://www.legislation.nsw.gov.au>
- <https://legislation.nt.gov.au>
- <https://www.legislation.sa.gov.au>
- <https://www.legislation.vic.gov.au>
- <https://www.legislation.tas.gov.au>
- <https://www.slp.wa.gov.au/legislation/statutes.nsf/home.html>.

All 21 pieces of legislation made some reference to Indigenous fisheries, with 17 addressing zero to all of the NIFTWG Principles (Table 1.3).

Table 1.3. Fisheries legislation from each jurisdiction showing which NIFTWG principles are potentially addressed (addressed=yellow squares, not addressed=grey squares). This table is based on data in Appendix 1.2.

FISHERIES ACTS	NIFTWG Principles						
	1	2	3	4	5	6	7
Commonwealth Fisheries Management Act 1991					Y		
Commonwealth Fisheries Administration Act 1991					Y		Y
Torres Strait Fisheries Act 1984	Y	Y	Y	Y		Y	Y
New South Wales Fisheries Management Act 1994	Y	Y	Y	Y		Y	Y
Northern Territory Fisheries Act 1988				Y			
Queensland Fisheries Act 1994		Y	Y	Y	Y		
South Australian Fisheries Management Act 2007	Y	Y	Y	Y			Y
Tasmanian Living Marine Resources Management Act 1995		Y	Y	Y	Y		
Tasmanian Inland Fisheries Act 1995							
Victorian Fisheries Act 1995	Y	Y	Y		Y		Y
Victorian Fisheries Authority Act 2016		Y					Y
Western Australian Aquatic Resources Management Act 2016		Y	Y	Y			Y
FISHERIES REGULATIONS	NIFTWG Principles						
	1	2	3	4	5	6	7
Commonwealth Fisheries Management Regulations 1992							
Torres Strait Fisheries Regulations 1985							
New South Wales Fisheries Management (General) Regulation 2010	Y		Y		Y		Y
Northern Territory Fisheries Regulations		Y	Y			Y	Y
Queensland Fisheries Regulation 2008	Y	Y				Y	
South Australian Fisheries Management (General) Regulations 2017							
Tasmanian Fisheries (General and Fees) Regulations 2016				Y			
Victorian Fisheries Regulations 2009		Y					
Western Australian Fish Resources Management Regulations 1995		Y					

Commonwealth Legislation

The principle pieces of Commonwealth fisheries legislation examined were:

- Fisheries Management Act 1991 (FMA)
- Fisheries Administration Act 1991 (FAA)
- Fisheries Management Regulations 1992(FMR)
- Torres Strait Fisheries Act 1984 (TSFA)
- Torres Strait Fisheries Regulation 1985 (TSFR).

The FMA 1991 and the FAA 1991 now provides for explicit recognition of Indigenous fisheries. The Australian Fisheries Management Authority (AFMA) must have regard to the objective of ensuring that the interests of Indigenous fishers are taken into account in the performance of its functions (see Appendix 1.2, Table 1.2.1).

This recognition strengthens the potential for engagement of Indigenous fishers in the management of the Commonwealths’ commercial fisheries and provides the opportunity for Indigenous interests to be considered in the AFMA decision making processes. The Act does not appear to explicitly address NIFTWG principles 1, 2, 3, 4 or 6.

The TSFA 1985 makes extensive reference to the Indigenous fisheries of the Torres Strait Islands (see Appendix 1.2 Table 1.2.1). Based on the Torres Strait Treaty, see Schedule 1 of the TSFA, the Act addresses all seven NIFTWG principles. In particular, the Act emphasizes the protection 'of the traditional way of life and livelihood of the traditional inhabitants including their traditional fishing'. The Act also provides some protection for Torres Strait Islander access to commercial fisheries opportunities and guarantees their active participation in fisheries management decision making processes.

Other related Commonwealth legislation

Two other pieces of Commonwealth legislation worth noting are the Native Title Act 1993 (NTA) and the Environment Protection and Biodiversity Act 1999 (EPBC Act). While not specifically fisheries legislation they never-the-less interact with fisheries legislation in all jurisdictions. For example, Section 211 of the NTA 1993 'provides that a law which prohibits or restricts persons from fishing or gathering other than in accordance with a licence or permit does not prohibit or restrict native title holders from carrying out that activity for the purpose of personal, domestic or non-commercial communal needs and in exercise of their native title rights and interests.'

The EPBC Act 1999 contains objectives that provide for the protection of Indigenous biodiversity related knowledge and the customary use of biological resources. The Act also has provisions within Parts 10 and 13 which taken together seek to ensure that commercial fisheries are conducted in a manner that ensures ecological sustainability. This means that the objectives of the Act relating to Indigenous peoples ought to be considered in the application of provisions in Parts 10 and 13.

New South Wales Legislation

The principle pieces of fisheries legislation in NSW are the:

- Fisheries Management Act 1994 (FMA)
- Fisheries Management (General) Regulation 2010 (FM(G)R).

The FMA 1994 makes reference to Aboriginal fishing in several places including, Parts 1, 2, 2A, 3, 7A, 8, and 10 and in doing so seems to address all seven NIFTWG principles to some extent (see Appendix 1.2, Table 1.2.2).

An object of the Act is 'to recognise the spiritual, social and customary significance to Aboriginal persons of fisheries resources and to protect, and promote the continuation of, Aboriginal cultural fishing'. The Act provides a definition of Aboriginal cultural fishing, exempts Aboriginal fishers from paying a fishing fee and establishes an authorisation process for Aboriginal cultural fishing.

The Act also states that the Minister must consult with Aboriginal interests on the development of fisheries management plans as well as providing for the establishment of ministerial advisory bodies including one for the Aboriginal fishing sector.

The Act establishes an Aboriginal fishing trust for the purposes of providing assistance to Aboriginal communities in relation to either or both of the following, Aboriginal cultural fishing and/or fishing-related activities for a commercial purpose.

The FM(G)R contains a number of references in relation to Aboriginal participation on ministerial advisory committees (see Appendix 1.2, Table 1.2.2). These references address NIFTWG Principles 1, 3, 5 and 7.

The regulations provide for the establishment of an Aboriginal Fishing Advisory Council (AFAC) and provide guidance on its structure, membership, and functions. The regulations also make provisions for Aboriginal interests to be addressed on both the Ministerial Fisheries Advisory Council (MFAC), which must have one member with expertise in Aboriginal cultural fishing and the Commercial Fishing Advisory Council (CFAC) which must include an Aboriginal person who is a commercial fisher.

Northern Territory Legislation

The principle pieces of fisheries legislation in the Northern Territory are:

- Fisheries Act (FA)
- Fisheries Regulations (FR).

The FA makes references to Indigenous fishing in Parts 1 and 5 of the Act, which taken together address to a degree NIFTWG Principles 1, 4 and 5 (see Appendix 1.2, Table 1.2.3). The objects of the Act ensure that the management of aquatic resources promotes fairness, equity and access to all stakeholders including Indigenous people.

The Act also states that nothing in a provision of the Act limits the rights of Aboriginal people who have traditionally used resources of an area of land or water in a traditional manner from continuing to use those resources in that area in that manner.

The FR make several references to Indigenous fishing in Parts 1, 3, 5, 6, 8, 9, 10, 11 and 12 which taken together address to a degree NIFTWG Principles 1, 2, 6 and 7 (see Appendix 1.2, Table 1.2.3).

The Regulations make provision for Aboriginal people to acquire an Aboriginal Coastal License (ACL). The person must be a permanent resident in a community for which land has been granted to a trust for the benefit of Aboriginals entitled by Aboriginal tradition to the use or occupation of that land under the Aboriginal Land Rights (Northern Territory) Act 1976.

An ACL holder however must not hold a Northern Territory commercial fishing licence or 'engage in fishing operations under the ACL while being an assistant of the holder of a commercial fishing licence.' There are also restrictions on the species that can be caught and sold by an ACL holder, for example they must not intentionally take barramundi, king threadfin, Spanish mackerel, trepang or mud crab although incidental catch may be utilised.

An ACL holder can sell fish to a variety of clients including for example, fish traders and processors, fish retailers, fish brokers, aquarium licensees, aquaculture licensee and the general public.

Queensland Legislation

The principle pieces of fisheries legislation in Queensland are the:

- Fisheries Act 1994 (FA)
- Fisheries Regulation 2008 (FR).

The FA 1994 makes reference to Indigenous fishing in a number of places (see Appendix 1.2, Table 1.2.4). These references, to a degree, address NIFTWG principles 1, 2, 3, 4 and 5. In Part 1 of the Act, Indigenous fishing is included in the objects and there is a special provision for a defence-based mechanism which offers protection from certain offences if the person is an Aboriginal or Torres Strait Islander and takes or possesses fish according to tradition or custom. The Act also describes the functions of the Chief Executive, one of which is to ensure fair division of access to fisheries resources for commercial, recreational and Indigenous use.

The FR also make reference to Indigenous fisheries in Parts 2 and 4 (Appendix 1.2, Table 1.2.4), which in part address NIFTWG principles 1, 2 and 6. These provisions allow the use of commercial size fishing nets, exclude Indigenous people from the definition of recreational fishing and create an Indigenous fishing permit.

The permit allows an Aboriginal or Torres Strait Islander person or community to trial a commercial fishing activity without having to acquire commercial fishing authorities. It is granted for 1 to 3 years. However, for the permitted activity to continue after this period requires the purchase or lease of the necessary fishing authorities on the open market.

South Australian Legislation

The principle pieces of fisheries legislation in South Australia are:

- Fisheries Management Act 2007 (FMA)
- Fisheries Management (General) Regulations 2017 (FM(G)R).

The FMA makes references to Indigenous fishing in Parts 1, 5, 6 and 10, which taken together address to a degree the NIFTWG Principles 1, 2, 3, 4, 5 and 7 (see Appendix 1.2, Table 1.2.5). While the Act mentions commercial and recreational fishing in the objects it doesn't mention Aboriginal fishing. The Act provides a definition of Aboriginal fishing and states that Native title and associated rights and interests are not affected by the operation of the Act.

The Act also acknowledges Aboriginal traditional fishing as a separate sector to recreational and commercial fishing. Aboriginal people have the right to fish without a license as cultural fishers, however this does not include the right to fish commercially.

The Act ensures that any development or application of fisheries management plans must be consistent with any relevant Aboriginal traditional fishing management plans and include input from representative of all signatories to any Indigenous Land Use Agreement (ILUA) that is in force in relation to any of the area to which the plan relates.

With regards to management of Aboriginal traditional fishing, the Act provides that Native Title groups who are party to an Indigenous Land Use Agreement (ILUA) may develop an Aboriginal traditional fishing management plan for the management of specific Aboriginal traditional fishing activities in a specified area of water.

Currently there is only one such plan in force the, Yandruwandha Yawarrawarrka Traditional Fishing Management Plan.

There is no mention of Aboriginal fishing in the South Australian Regulations.

Tasmania Legislation

The principle pieces of fisheries legislation in Tasmania are:

- Living Marine Resources Management Act 1995 (LMRMA)
- Inland Fisheries Act 1995 (IFA)
- Fisheries (General and Fees) Regulations 2016 (F(G&F)R).

The LMRMA makes references to Indigenous fishing in Parts 1, 4, 5, 8 and 9 of the Act, which taken together address to a degree the NIFTWG Principles 2, 4 and 5 (see Appendix 1.2, Table 1.2.6). While the Act does not refer to Aboriginal customary fishing in the objects, it does provide a definition for Aboriginal activities relating to fishing and an exemption from licensing requirements for those activities.

Any authorisations under the Act do not extinguish or impair any native title rights and interests or preclude Aboriginal people from engaging in Aboriginal fishing related activities. However, an Aboriginal person may apply to the Minister for a permit to take any action for Aboriginal cultural and ceremonial activities which might otherwise contravene the Act.

Any management plans that incorporates a total allowable catch for a species or class of fish may provide for some of that catch to be allocated to Aboriginal people engaging in Aboriginal fishing related activities.

The Regulations exempt Aboriginal people from the prohibition on taking of certain species; i.e. limpets.

There is no mention of Aboriginal fishing in the IFA.

Victoria Legislation

The principle pieces of fisheries legislation in Victoria are:

- Fisheries Act 1995 (FA)
- Fisheries Regulation 2009 (FR)
- Victorian Fisheries Authority Act 2016 (VFAA).

The FA makes references to Indigenous fishing, in Parts 1, 3, 4, and 6 which taken together address to a degree the NIFTWG Principles 1, 2, 3, 5 and 7 (see Appendix 1.2, Table 1.2.7).

An object of the Act is 'to facilitate access to fisheries resources for commercial, recreational, traditional and non-consumptive uses. Where traditional use refers to Aboriginal cultural fishing. Provision is made for representative advice from a variety of groups during any consultation process including indigenous groups.

The Act makes a provision for Traditional Owner Groups who have an agreement under Part 6 of the Traditional Owner Settlement Act 2010 to protect Aboriginal fishing from certain offences under the Act.

In relation to the development of fishery management plans, the Act requires due regard be given to traditional use of fisheries resources.

The Act also provides a process by which traditional owners can apply for a general permit to be issued 'to take or possess fish for a specified indigenous cultural ceremony or event. In addition, Native title holders do not need to apply for recreational fishing licences.

The Regulations provide a general exemption for traditional owner groups (TOGs) from the regulations in accordance with section 11AA of the FMA (see Appendix 1.2, 1.2.7). This exemption addresses NIFTWG principle 2.

The VFA states that when appointing the VFA Board the Minister must ensure that collectively the directors have skills, knowledge or experience, especially in relation to Aboriginal culture and identity, as it relates to fishing and fisheries. However, this does not mean that an Aboriginal person would be appointed to the VFA.

Western Australian Legislation

The principle pieces of fisheries legislation in Western Australia are:

- Aquatic Resources Management Act 2016 (ARAA 2016)
- Fish Resources Management Regulations 1995 (FRMR 1995).

The ARAA makes references to Indigenous fishing in Parts 1, 3, 6 and 14, which taken together address, to a degree, the NIFTWG Principles 2, 4 and 7 (see Appendix 1.2, Table 1.2.8). While the Act does not refer to Aboriginal people and the importance of customary fishing in the objects it does provide a definition of customary fishing and also states that an 'Aboriginal person is not required to hold an authorisation to take aquatic organisms if the organisms are taken for the purposes of the person or the person's family and not for a commercial purpose'.

Under the Act it is also a requirement for aquatic resource management strategies to indicate the quantity of aquatic resources to be made available in a fishing period for customary fishing.

The Regulations may make provision in relation to the licensing of Aboriginal bodies corporate undertaking commercial fishing.

The Regulations make reference to Indigenous fishing in Parts 1 and 11 which taken together address to a degree the NIFTWG Principle 2 (see Appendix 1.2, Table 1.2.8).

Fisheries Policies

Fifty-six fisheries related policy documents were sourced from the internet, of which, six were from the Commonwealth, ten from New South Wales, five the Northern Territory, five from Queensland, four from South Australia, five from Tasmania, six from Victoria, and fifteen from Western Australia (Appendix 1.3, Tables 1.3.1 to 1.3.8). Fifty-two percent of all

policy documents had some reference to Indigenous fisheries. This ranged from all seven principles addressed in at least 3 documents to zero addressed in at least 27 documents.

Commonwealth Policies

Three of the six fisheries related policy documents sourced from Commonwealth fisheries web site made reference to Indigenous fisheries addressing some of the NIFTWG principles some extent (Table 1.4).

The Commonwealth Fisheries Policy Statement acknowledges that fish and fishing have cultural significance for Indigenous Australians and so recognizes the need for equitable access for Indigenous fishers to marine resources utilised by commercial and recreational sectors. The policy also identifies Indigenous fishers as key stakeholders in the Commonwealth fisheries.

The National Aquaculture Strategy contains a commitment to engage with Indigenous Australians. It also seeks to ensure Indigenous participation in setting research priorities and allocating funding through FRDC.

To provide advice on Indigenous fisheries research FRDC has set up the and created a sub-program with a budget to fund research projects that address the research, development and extension priorities identified during the Cairns workshop in 2011.

The National Marine Science Plan acknowledges the long and ongoing attachment that Indigenous people have with their sea country and the importance this plays spiritually and economically and at the same time recognises the contributory role that Indigenous knowledge could play in building a better understanding of Australia’s marine ecosystems and species. The policy also notes that in relation to allocation issues there is a need for improved data collection on Indigenous use and rights.

There is no mention of Indigenous fisheries in the Fisheries Harvest Strategy guidelines.

The ‘Guidelines for the Ecologically Sustainable Management of Fisheries’ which are intended for use by various fisheries agencies on make an application for accreditation under the EPBC Act Part 13A contain only one reference to indigenous fisheries. This reference treats Indigenous fisheries along with the commercial and recreational sectors as an impactor on target species.

Table 1.4. Commonwealth fisheries related policy documents and whether they address the NIFTWG principles. (Based on data in Appendix 1.3, Table 1.3.1. Yellow square=appears to address, grey=not addressed).

Commonwealth Fisheries Related Policy	NIFTWG						
	1	2	3	4	5	6	7
Commonwealth Fisheries Policy Statement 2017				Yellow			Yellow
National Aquaculture Strategy 2017						Yellow	Yellow
National Marine Science Plan 2015-2025	Yellow			Yellow			Yellow
National Aquaculture Statement 2014							
National Compliance and Enforcement Policy 2013	Yellow						
Commonwealth Fisheries Harvest Strategy: Policy and Guidelines 2007							
Guidelines for the ecologically sustainable management of fisheries 2007					Yellow		

Indigenous Fisheries Strategies

There is no current Indigenous fisheries policy document or management strategy at the Commonwealth level. However, following the Resource Assessment Commission's Coastal Zone Inquiry in 1993, the Government in 1995 produced the Commonwealth Coastal Policy an element of which included the need to develop an Indigenous fisheries strategy. The strategy never eventuated instead in 2004 the NIFTWG Principles were developed.

New South Wales Policy

Ten policy documents were sourced from the New South Wales fisheries web site four of which addressed some of the NIFTWG Principles (Table 1.5).

The NSW policy on fisheries resource sharing recognises the strong customary links between Aboriginal people and aquatic environments especially in relation to a reliance on fish for food, culture and possible economic development. The Policy therefore includes as a guiding principle, that management arrangements must pay due regard to existing Aboriginal cultural fishing and access rights.

A policy on Aboriginal engagement and cultural use of fisheries resources in NSW marine parks, encourages the involvement of Aboriginal people in planning and management marine parks. The policy seeks to support and provide for cultural use of fisheries resources in marine parks.

NSW's Fisheries Compliance policy includes recognition of an interim fishing access arrangement for the taking of fish and other activities in accordance with Aboriginal cultural fishing. The arrangements have been in place since 3 November 2014, and they allow for extended bag and possession limits despite the fact that there is no statute in force or a regulatory regime put in place. The interim access arrangement provides that identification as an Aboriginal cultural fisher allows a catch size equivalent to twice the recreational bag limit.

Recommendations that the interim access arrangements be moved into the NSW Fisheries Act (see Legislation section relating to NSW above) has received ongoing debate within the NSW AFAC as to whether regulations are necessary and if so, what they should look like.

Table 1.5. New South Wales fisheries related policy documents and whether they address the NIFTWG Principles. (Based on data in Appendix 1.3. Table 1.3.2. Yellow square = appears to address, grey=not addressed).

NSW Fisheries Related Policy	NIFTWG						
	1	2	3	4	5	6	7
Fisheries advisory groups: Establishment and governance 2017							
Fisheries Resource Sharing in NSW 2015							
Aboriginal Engagement & Cultural Use of Fisheries Resources in Marine Parks 2015							
Artificial reefs and fish attracting devices in NSW Marine Parks 2015							
Fisheries NSW Strategic Research Plan 2014-18							
Debt management: Commercial fisheries quota transfer restrictions 2014							
Policy and guidelines for fish habitat conservation and management 2013							
Policy Developmental Commercial Fisheries 2012							
Recreational Fishing Fee Agent – Debt Recovery policy 2012							
Fisheries Compliance Enforcement Policy and Procedure 2011							

Indigenous Fisheries Strategies

There is no current Aboriginal fisheries policy or strategy. In 1998 the NSW government began the development of an Aboriginal fisheries strategy in response to the RAC CZI findings. In 2003 the Indigenous Fisheries Strategy and Implementation Plan (IFS) 2002-2004 was launched (NSW DPI Fisheries Website). Since 2004 the IFS has been a point of reference for the Department in the development of ongoing approaches to the address a range of fisheries related issues identified by Aboriginal communities.

The IFS has played a significant guiding role in the development of several initiatives including; legislative recognition of Aboriginal cultural fishing in the NSW Fisheries Management Act, the formation of the NSW AFAC, the establishment of an Aboriginal Fishing Trust, a dedicated section on Aboriginal fishing on the fisheries department website and a program of cultural awareness training for all fisheries agency staff across NSW.

Northern Territory

Five policy documents were sourced from the Northern Territory fisheries web site. All five documents make reference to Indigenous fisheries to some extent (Table 1.6).

The Northern Territory’s fisheries harvest strategy policy simply notes that the Indigenous fishing sector along with other stakeholders has a key role to play in implementing the policy through co-management arrangements. The harvest strategy guidelines provide little more in relation to Indigenous fishing than a definition for traditional fishing.

The Northern Territory government considers resource sharing issues independently of ongoing negotiations with traditional owners regarding access to waters overlying Aboriginal land. However, a fisheries resource sharing framework includes as a principle that allocations will ensure the right of Aboriginal people to use aquatic resources.

Table 1.6. Northern Territory fisheries related policy documents and whether they address the NIFTWG Principles based on data in Appendix 1, Table 1.3.3. (Yellow square = appears to address, grey=not addressed).

Northern Territory Fisheries Related Policy	NIFTWG						
	1	2	3	4	5	6	7
Aquaculture Policy 2018						Yellow	Yellow
Northern Territory Fisheries Harvest Strategy Policy 2016		Yellow					Yellow
Guidelines for Implementing the Northern Territory Fisheries Harvest Strategy Policy 2016		Yellow					
Northern Territory Fisheries Resource Sharing Framework 2015	Yellow	Yellow		Yellow			
Indigenous Fisheries Development Strategy 2012–2014	Yellow	Yellow	Yellow	Grey	Yellow	Yellow	Yellow

Indigenous Fisheries Strategies

The Northern Territory government does not have a current Indigenous fisheries strategy, but it has committed to work with coastal Aboriginal traditional owner groups on better engagement processes relating to fisheries issues.

From 2012 to 2014 there was an Indigenous fisheries development strategy in place through which the Northern Territory fisheries agency sought to support sustainable, culturally appropriate business and employment opportunities for Aboriginal communities in fisheries management, research, development, training, industry participation and resource protection (Appendix 1.3, Table 1.3.3).

Queensland

Five policy documents were sourced from the Queensland fisheries web site. Three of these make reference to Indigenous fisheries to some extent (Table 1.7).

Table 1.7. Queensland fisheries related policy documents and whether they address the NIFTWG Principles. (Based on data in Appendix 1.3., Table 1.3.4. Yellow square = appears to address, grey=not addressed).

Queensland Fisheries Related Policy	NIFTWG						
	1	2	3	4	5	6	7
Queensland Sustainable Fisheries Strategy 2017-2027.	Yellow	Yellow	Grey	Yellow	Yellow	Grey	Yellow
Queensland Harvest Strategy Policy 2017	Yellow	Yellow			Yellow		
Queensland Harvest Strategy Guidelines 2017					Yellow		
Fisheries Queensland Ecological Risk Assessment Guidelines 2017							
Fisheries Queensland Monitoring and Research Plan 2017							

The Queensland government is, as of 2018, implementing a sustainable fisheries strategy which includes recognition Indigenous fisheries both as a source of sustenance and for spiritual and cultural purposes. The strategy proposes to reform existing fisheries management framework to better recognise traditional fishing and its role.

In relation to engagement, the strategy proposes among other actions, the establishment of an Indigenous fisheries working group to advise the department on such issues as catch allocation, harvest strategies and improved involvement in fisheries management and the commercial sector.

The strategy also contains a commitment to develop an Indigenous commercial fishing development policy to support Indigenous economic development in a way that supports sustainable fishing. The current Indigenous Fishing Permit process will be reviewed as part of this initiative and will consider the fisheries-related economic development aspirations of Indigenous communities.

Queensland’s harvest strategy policy and harvest strategy guidelines note the need to consider Indigenous fisheries issues however the ecological risk assessment guidelines make no mention of Indigenous fisheries. The monitoring and research plan, in relation to traditional fisheries acknowledges that the department currently has little understanding of the size of the catch or the methods employed.

Indigenous Fisheries Strategies

Queensland has no Indigenous fisheries policy document or management strategy. However, in 1997 the Queensland Fisheries Management Authority (QFMA) sought and was granted an allocation of \$88,000 by the Commonwealth Government to commence development of a strategy. In 2007 Queensland fisheries had developed a draft Indigenous fisheries strategy but its status is unknown.

Queensland’s Sustainable Fisheries Strategy 2017-2027 has acknowledged the need for specific Indigenous policies and it provides for the development of a traditional fishing policy and an Indigenous commercial fishing development policy to support economic development (see Appendix 1.3, Table 1.3.4 for more detail).

South Australia

Four policy documents were sourced from the South Australia fisheries web site. Three documents make reference to Indigenous fisheries to some extent (Table 1.8).

Table 1.8. South Australian fisheries related policy documents and whether they address the NIFTWG Principles (Based on data in Appendix 1.3, Table 1.3.5. Yellow square = appears to address, grey=not addressed).

South Australia Fisheries Related Policy	NIFTWG						
	1	2	3	4	5	6	7
Cost Recovery Policy 2015							
South Australian fisheries harvest strategy policy 2015							
Policy for the Co-management of Fisheries in South Australia 2013							
Allocation Policy: Allocation of Access to Fisheries Resources Between Fishing Sectors 2011							

South Australia’s harvest strategy policy acknowledges that the traditional fishing sector has a role to play in implementing the policy through co-management arrangements. These arrangements are outlined in the States co-management policy which acknowledges community-based fisheries management is already occurring as a result of the development of ILUAs, (see Appendix 1.3, Table 1.3.5).

The ILUA process is also referred to in the States allocation policy which proposes that access to fisheries by Aboriginal communities will be through Aboriginal traditional fishing management plans developed when an ILUA is in place. The policy proposes that in the first management plans for each fishery, a share of access will be allocated and set aside for the

purpose of resolving native title claims. The share will be nominal, depending on the species and will be deducted from the recreational share, because Aboriginal traditional fishing is considered non-commercial fishing.

Indigenous Fisheries Strategy

While South Australia does not have an Indigenous fisheries strategy as such it does provide for the development of Aboriginal traditional management plans in conjunction with ILUAs negotiated as part of a Native Title settlement. For example the fisheries department in association with parties to the Yandruwandha Yawarrawarrka Fishing ILUA, have developed the Yandruwandha Yawarrawarrka Fishing Management Plan . This plan is the first of its kind in Australia. The intention is for more such plans to be developed as other ILUAs are negotiated.

Tasmanian Policy

Five policy documents were sourced from the Tasmanian fisheries web site. Two documents make reference to Indigenous fisheries to some extent (Table 1.9).

Table 1.9. Tasmanian fisheries related policy documents and whether they address the NIFTWG Principles. (Based on data in Appendix 1.3, Table 1.3.6. (Yellow square = appears to address, grey=not addressed).

Tasmania Fisheries Related Policy	NIFTWG						
	1	2	3	4	5	6	7
Update of Policy Document for the Tasmanian Minor Shellfish Fishery 2017							
Recognition of Aboriginal Fishing Activities and Allotting Unique Identifying Codes 2015							
Shellfish Fishery Policy Document 2007							
Policy Document for the Commercial Dive Fishery 2005							
Developmental Fisheries Management Policy Document							

An Aboriginal Tasmanian can receive recognition for cultural fishing activities through possession of a Unique Identifying Code (UIC). The UIC is made available following successful application to the Fisheries department which establishes eligibility using the Government’s process for determining access to Aboriginal and Torres Strait Islander programs and services. A UIC is allotted to a person for life and does not need to be renewed. It cannot be transferred and is not a tradeable commodity.

Shellfish Fishery Policy Document recognizes the historical catch of shellfish by Aboriginal fishers and seeks to continue to allow cultural access to shellfish such as clams, cockles, pipis and mussels taken for non-commercial purposes.

Indigenous Fisheries Strategy

Tasmania does not have a specific Indigenous fisheries strategy.

Victoria

Six policy documents were sourced from the Victorian fisheries web site. Five documents make reference to Indigenous fisheries to some extent (Table 1.10). Three of these documents cover all seven NIFTWG principles to some extent.

Table 1.10. Victorian fisheries related policy documents and whether they address the NIFTWG Principles. (Based on data in Appendix 1.3, Table 1.3.7. Yellow square = appears to address, grey=not addressed).

Victorian Fisheries Related Policy	NIFTWG						
	1	2	3	4	5	6	7
Response to Ministerial Statement of Expectations for the VFA 2018-2020	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow
Ministerial Statement of Expectations for the VFA 2018-2020	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow
Victorian Aquaculture Strategy 2017-2022	Grey	Grey	Grey	Grey	Grey	Yellow	Yellow
Victorian Inland Commercial Fishing Policy 2017	Yellow	Yellow	Grey	Grey	Grey	Grey	Grey
Policy Fish Stocking for Recreational Purposes 2017	Grey	Grey	Grey	Grey	Grey	Grey	Grey
Victorian Aboriginal Fishing Strategy 2012	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow

A Ministerial statement of expectations was made to the VFA for the period 2018-2020 which says that the VFA should undertake engagement, partnerships and participation with Aboriginal people as well as participating in Native Title settlement discussions related to fishery management issues.

Victoria’s aquaculture strategy recognises that the development of Aboriginal interests and opportunities is a core element throughout the strategy with engagement essential to with Victorian to identify aquaculture development opportunities and support initiatives from Aboriginal groups in the State.

Indigenous Fisheries Strategy

Victoria adopted an Aboriginal Fisheries Strategy (AFS) in 2012 which seeks to achieve recognition of customary fishing rights, better economic opportunities and sustainable fisheries management in collaboration with Traditional Owner Groups (TOGs).

To achieve these goals the Strategy outlines several actions including but not limited to; amending fisheries legislation and regulations, creating a TOG Permit, working with TOGs to integrate Aboriginal ecological knowledge into programs, identifying opportunities for sustainable economic development, implementing a state-wide cultural awareness training for fisheries staff, increasing Aboriginal employment in the VFA, working with the other fishing sectors to identify opportunities for Aboriginal employment or economic development within existing fisheries, considering TOGs interests in allocating entitlements, developing engagement practices to improve meaningful participation in fisheries management and consultative processes and developing Natural Resource Agreements and ILUAs with TOGs to provide recognition and collaborative management of fisheries resources on traditional country. For more details on the AFS refer to Appendix 1.3, Table 1.3.7.

Western Australia

Fifteen policy documents were sourced from the Western Australian fisheries web site and six of these make reference to Indigenous fisheries addressing NIFTWG to some extent (Table 1.11).

The Western Australian government 2012 fisheries policy states that it will ensure that Aboriginal customary fishing is managed within a sustainable fisheries management framework in accordance with its Aboriginal Customary Fishing Policy (CFP) (see below).

Western Australia’s 2002 policy for the implementation of ecologically sustainable development for fisheries includes Indigenous well-being as one of the eight major components of ESD relevant to fisheries. It states that Indigenous well-being includes being able to satisfy traditional fishing needs, cultural and economic development and sustainability of Indigenous communities.

Table 1.11. Western Australia fisheries related policy documents and whether they address the NIFTWG Principles. (Based on data in Appendix 1.3, Table 1.3.8. Yellow square = appears to address, grey=not addressed).

Western Australian Fisheries Related Policy	NIFTWG						
	1	2	3	4	5	6	7
Policy on the Application of Fish Size Limits in WA 2016							
Harvest Strategy Policy and Operational Guidelines for the Aquatic Resources 2015			Yellow				
Aquaculture Development Zones: Policy principles for aquaculture licences and leases 2015							
Kimberley Aquaculture Development Zone Management Policy 2015							
Abalone Aquaculture in Western Australia Policy 2013							
Policy on Restocking and Stock Enhancement in WA 2013							
Western Australian Government Fisheries Policy Statement 2012	Yellow	Yellow					
Policy on Habitat Enhancement Structures in WA 2012							
Customary Fishing Policy 2009	Yellow	Yellow	Yellow				
Integrated Fisheries Management Policy 2009				Yellow	Yellow		
Aquaculture of Coral, Live Rocks and Associated Products Aquaculture Policy 2009							
Harvest Strategy Policy and Operational Guidelines for the Aquatic Resources 2005			Yellow				
Policy for the Implementation of ESD for Fisheries and Aquaculture 2002	Yellow						Yellow
Policy for Managing Translocations of Live Fish into and within WA							
Assessment of Applications for the Granting, Renewal or Transfer of Fishing Tour Operators Licences And Aquatic Eco-tourism Operators Licences: Ministerial Policy Guidelines 2000							

Indigenous Fisheries Strategy

In 2003 the WA government developed an Aboriginal Fishing Strategy, however this strategy was never implemented, currently WA has a Customary Fishing Policy (CFP).

The CFP applies to Aboriginal people fishing carried out in accordance with Aboriginal law and custom for the purposes of satisfying personal, domestic and cultural non-commercial needs. It includes elements of barter of fish within or between Aboriginal communities for food or non-edible items other than money. Fishing methods are not restricted to traditional gear types, species or methods, as long as gear or methods fit within a sustainable fisheries management framework. For more details on elements of the CFP refer to Appendix 1.3, Table 1.3.8).

Fisheries Management Strategies and Plans

Sourcing Fisheries Management Strategies (FMS) and Fisheries Management Plans (FMP) proved difficult as each jurisdiction differed in where these documents could be found. There was also variation in what might be referred to as a FMS or a FMP. Another difficulty related to the stage of development of particular FMS/FMP’s, some were in a state of development or review, some were in draft form while others were final versions. More recently there has been a move away from the use of broader FMS’s to the development of harvest strategies to manage fisheries.

A total of 148 strategies/plans were sourced from web pages associated with each fisheries jurisdiction. Of these only 30% made some reference to Indigenous fisheries.

Commonwealth

A total of thirteen Commonwealth harvest strategies and three management plans were audited of which three were deemed to have addressed one or more of the NIFTWG principles (Table 1.12) The three fisheries found in the Torres Strait region addressed all seven NIFTWG Principles.

Table 1.12. NIFTWG Principles identified as being addressed in each Commonwealth fisheries harvest strategy and Management plan. (Yellow square = appears to address, grey=not addressed).

Harvest Strategies and Management Plans	Principles						
	1	2	3	4	5	6	7
Bass Strait Central Zone Scallop Fishery HS							
Coral Sea Fishery – Aquarium Sector HS							
Coral Sea Fishery – Lobster and Trochus Sector HS							
Coral Sea Fishery – Sea Cucumber Sector HS							
Coral Sea Fishery – Line Trawl and Trap Sector HS							
Eastern Tuna and Billfish Fishery HS							
Northern Prawn Fishery HS							
Skipjack Tuna HS							
Small Pelagic Fishery HS							
Southern and Eastern Scalefish and Shark Fishery HS							
Arrow-Squid Fishery HS							
NW Slope Trawl Fishery & Western Deepwater Trawl Fishery HS							
Western Tuna and Billfish Fishery HS							
Torres Strait Finfish Fishery MP							
Torres Strait Rock Lobster Fishery (Draft) MP							
Torres Strait Prawn Fishery MP							

New South Wales

Eleven NSW fisheries management strategies and plans were audited (Table 1.13). None of the management plans contained any reference to Indigenous fisheries while all of the fisheries strategies addressed most of the NIFTWG principles. All of the strategies referred to the 2004 NSW Indigenous Fisheries Strategy.

Table 1.13. NIFTWG Principles identified as being addressed in New South Wales Fisheries Management Plans and Strategies. (Yellow square = appears to address, grey=not addressed).

Management Plans and Strategies	Principles						
	1	2	3	4	5	6	7
Estuary General Share MP 2006							
Ocean Hauling Share MP 2006							
Estuary Prawn Trawl Share MP 2006							
Abalone Share MP 2000							
Ocean Trap and Line Share MP 2006							
Estuary General Fishery MS 2003							
Ocean Haul Fishery MS 2003							
Ocean Trap and Line Fishery MS 2006							
Ocean Trawl Fishery MS 2007							
Lobster Fishery MS 2007							
Abalone Fishery MS 2007							

Northern Territory

Nine management plans were sourced for the Northern Territory of which two made minimal reference to Indigenous fisheries (Figure 1.14).

Table 1.14. NIFTWG Principles identified as being addressed in each Northern Territory Fishery Management Plan. (Yellow square = appears to address, grey=not addressed).

Management Plan	Principles						
	1	2	3	4	5	6	7
Mud Crab Fishery				Yellow			
Barramundi Fishery							
Pearl oyster Culture Industry							
Spanish Mackerel Fishery				Yellow			
East Point Aquatic Life Reserve							
Doctors Point Aquatic Life Reserve							
Northern Territory Demersal Fishery							
Northern Territory Finfish Trawl Fishery							
Northern Territory Timor Reef Fishery							

Queensland

Fifteen Queensland fisheries management plans were located with zero making any reference to Indigenous fisheries (Table 1.15).

Table 1.15. NIFTWG Principles identified as being addressed in each Queensland Fisheries Management plan sourced. (Yellow square = appears to address, grey=not addressed).

Management Plans	Principles						
	1	2	3	4	5	6	7
Blue Swimmer Crab Pot Fishery							
Coral Reef Fin Fish Fishery							
Deep Water Finfish Fishery							
East Coast Pearl Fishery							
East Coast Otter Trawl Fishery							
East Coast Spanish Mackerel Fishery							
East Coast Trochus Fishery							
East Coast Beche-de-mer Fishery							
Finfish (Stout Whiting) Trawl Fishery							
Gulf of Carpentaria Inshore Finfish Fishery							
Marine Specimen Shell Fishery							
Mud Cab Fishery							
Developmental Slipper Lobster Fishery							
Spanner Crab Fishery							
Tropical Rock Lobster Fishery							

South Australia

Thirteen South Australian fisheries management plans were located with all but one making substantial references to Indigenous fisheries (Table 1.16).

Table 1.16. NIFTWG Principles identified as being addressed in each sourced South Australian Fisheries management plan. (Yellow square = appears to address, grey=not addressed).

Management Plan	Principles						
	1	2	3	4	5	6	7
Abalone Fishery							
Blue Crab Fishery							
Giant Crab Fishery							
Lake Eyre Basin Fishery							
Lakes and Coorong Fishery							
Pilchard Fishery							
Marine Scalefish Fishery							
Gulf St Vincent Prawn Fishery							
Spencer Gulf Prawn Fishery							
Commercial Northern Zone Rock Lobster Fishery							
Commercial Southern Zone Rock Lobster Fishery							
Charter Boat Fishery							
Yandruwandha Yawarrawarrka Traditional Fishing Management Plan							

Tasmania Fisheries

Nine fisheries Tasmanian management plans were located but only one made any reference to Indigenous fisheries. (Table 1.17).

Table 1.17. NIFTWG Principles identified as being addressed in each Tasmanian Fisheries management plans. (Yellow square = appears to address, grey=not addressed).

Management Plan	Principles						
	1	2	3	4	5	6	7
Giant Crab Fishery							
Scallop Fishery							
Great Lake Fishery							
Lakes Sorell and Crescent Water							
Penstock Lagoon							
Inland Recreational Fishery							
Western Lakes Wilderness Fishery							
Eel Industry Development and Management Plan							
Whitebait Fishery							

Victoria Fisheries

Twenty-three management plans were sourced from the Victorian fisheries web site of which six were for commercial fisheries, nine for recreational fisheries and eight for fisheries reserves (Table 1.18). Three commercial fisheries, seven recreational fisheries and four fisheries reserves plans made some reference to Indigenous fisheries.

Table 1.18. NIFTWG Principles identified as being addressed in each Victorian Fisheries management strategy. (Yellow square = appears to address, grey=not addressed).

Management Plans	Principles						
	1	2	3	4	5	6	7
Wild Harvest Abalone Fishery 2014							
Eel Fishery 2017			Yellow	Yellow		Yellow	Yellow
Giant Crab Fishery 2010		Yellow					
Developmental Jellyfish							
Rock Lobster Fishery 2017						Yellow	Yellow
Scallop Fishery							
Glenelg Hopkins Recreational Fishery P	Yellow					Yellow	Yellow
East Gippsland Recreational Fishery P	Yellow					Yellow	Yellow
Goulburn Broken Recreational Fishery 2011							
Port Phillip Western Port Recreational Fishery 2009				Yellow			Yellow
Wimmera Recreational Fishery 2009							
Corangamite Recreational Fishery 2008	Yellow						Yellow
West Gippsland Recreational Fishery 2008	Yellow						
North East Recreational Fishery 2007	Yellow			Yellow			Yellow
Glenelg Hopkins Recreational Fishery 2006	Yellow						
Lake Tyers Fisheries Reserve 2007	Yellow						Yellow
Mallacoota Inlet Fisheries Reserve 2006	Yellow						Yellow
Anderson Inlet Fisheries Reserve 2006	Yellow						Yellow
Portland Aquaculture Fisheries Reserve 2006							Yellow
Pinnacle Channel Aquaculture Fisheries Reserve 2005							
Geelong Arm Aquaculture Fisheries Reserves 2005							
Flinders Aquaculture Fisheries Reserve 2005							
Eastern Port Phillip Bay Aquaculture Fisheries Reserves 2005							

Western Australia

Fifty-two fisheries management plans and harvest strategies were sourced from the West Australian fisheries web site. Of these, only six made minimal reference to Indigenous fisheries (Table 1.19).

Table 1.19. NIFTWG Principles identified as being addressed in each Western Australian Fisheries management and harvest strategies. (Yellow square = appears to address, grey=not addressed).

Management Plans and Harvest Strategies	Principles						
	1	2	3	4	5	6	7
West Coast Limited Entry Fishery							
Cockburn Sound Limited Entry Fishery (fish net)							
Cockburn Sound Limited Entry Fishery (Mussels)							
Shark Bay Beach Seine & Mesh net Limited Entry Fishery							
South Coast Estuarine Fishery							
South-West Coast Salmon Fishery							
Specimen Shell Limited Entry Fishery							
Cockburn Sound Limited Entry Fishery (line and pot)							
South Coast Salmon Fishery							
Cockburn Sound Limited Entry Fishery (crab)							
Broome Prawn Managed Fishery							
Northern Demersal Scalefish Fishery							
Marine Aquarium Fish Limited Entry Fishery							
Esperance Rock Lobster Limited Entry Fishery							
Kimberley Gillnet & Barramundi Limited Entry Fishery							
Warnbro Sound Limited Entry Fishery (crab)							
Pilbara Trap Limited Entry Fishery							
Kimberley Prawn Limited Entry Fishery							
Shark Bay Scallop Limited Entry Fishery							
Windy Harbour-Augusta Rock Lobster Limited Entry Fishery							
Nickol Bay Prawn Limited Entry Fishery							
Southwest Trawl Limited Entry Fishery							
Abrolhos Islands & Mid-west Trawl Limited Entry Fishery							
Exmouth Gulf Prawn Limited Entry Fishery							
West Coast Purse Seine Limited Entry Fishery							
Shark Bay Prawn Limited Entry Fishery							
Pilbara Fish Trawl Interim Managed Fishery							
Onslow Prawn Limited Entry Fishery							
Southern Demersal Gillnet & Demersal Longline Limited Entry Fishery							
South Coast Perse Seine Limited Entry Fishery							
West Coast Demersal Gillnet & Demersal Longline Limited Entry Fishery							
Abalone Limited Entry Fishery							
Shark Bay Crab Fishery (interim)							
West Coast Demersal Scalefish Fishery (interim)							
Gascoyne Demersal Scalefish Fishery							
Mackerel Managed Fishery							
West Coast Rock Lobster Managed Fishery							
West Coast Estuarine Managed Fishery							
West Coast Deep Sea Crustacean Managed Fishery							
Abalone Resource of Western Australia HS 2016							
Australian Herring HS Draft 2016							
Blue Swimmer Crab Resource of the Peel-Harvey Estuary HS 2015							
Exmouth Gulf Prawn Managed Fishery HS 2014							
Finfish Resources of the Peel-Harvey Estuary HS 2015							
Gascoyne Demersal Scale-fish Resource HS 2017							
North Coast Demersal Scale-fish resource HS 2017							
Octopus Resource of Western Australia HS 2018							
Western Australian Sea Cucumber Resource HS 2018							
Shark Bay Prawn Managed Fishery HS 2014							
Western Australian Silver-lipped Pearl Oyster Resource HS 2016							
West Coast Deep Sea Crustacean Resources HS 2015							
West Coast Rock Lobster HS and Control Rules 2014							

Management Plans Submitted for Accreditation under the EPBC Act

The EPBC Act, allows the Australian Government to play a major role in assessing the environmental performance of Australian fisheries as it requires all Commonwealth managed fisheries and all State and Territory fisheries, that have an export component to undergo assessment to determine the extent to which management arrangements ensure the fishery is managed in an ecologically sustainable way.

The Department of the Environment and Energy¹ (DEE) maintains a centralised data base entitled [Fisheries Assessments](#) on its Website which provides ready access to all the submissions made by each fisheries agency. The first assessment process began in the early 2002 since then most fisheries have undergone multiple assessments.

The total number of Australian fisheries audited from the DEE fisheries assessments website was 142, and the total number of individual assessments audited was 444 – a number of fisheries had multiple assessments as approvals expired (Appendix 1.4). Of the 444 assessments covering the 142 fisheries 87% contain some reference to Indigenous fisheries but not all of the references related to the NIFTWG principles. Of the 142 fisheries assessed 46% had made reference to Indigenous fisheries which addressed the NIFTWG principles.

Commonwealth Fisheries

Twenty-five Commonwealth fisheries comprising a total of 81 assessments were audited of which 20 made some reference to Indigenous fisheries (Appendix 5). Of these, 6 were deemed to have addressed one or more of the NIFTWG principles (Table 1.20)

Nineteen of the listed fisheries do not address any of the NIFTWG Principles. Most of these fisheries occur at some distance from the Australian coast and in some cases in deep water. The submissions from the agency to DEE in some of these cases assumed zero Indigenous catch or interest. Six of the 17 are closer to the coast line and the assumption is that if there is Indigenous take, it is likely to be negligible. Three fisheries addressed all 7 of NIFTWG Principles, these occur in Torres Strait waters where Torres Strait Islanders have significant interests that are both commercial and cultural. Virtually all submissions commented on the lack of information or data available about the Indigenous catch in each fishery.

¹ *During the life of this project the Commonwealth Department of the Environment and Energy (DEE) underwent a number of name changes*

Table 1.20. NIFTWG Principles identified as being addressed in each Commonwealth Fisheries Submissions to DEE for the purposes of accreditation for export as per the EPBC Act 1999 Section 13A. (Based on data in Appendix 1.4). (Yellow square = appears to address, grey=not addressed).

Commonwealth	NIFTWG Principles						
	1	2	3	4	5	6	7
Submission on Ecological Sustainability							
Australian export from New & Exploratory Fisheries in the CCAMLR							
Australia's High Seas Permits							
Bass Strait Scallop Central Zone Fishery							
Coral Sea Fishery							
Eastern Tuna & Billfish Fishery							
Heard Island & McDonald Islands Fishery							
Informally Managed Fishing Permits							
Macquarie Island Toothfish Fishery							
New & Exploratory Fisheries in the CCAMLR Region							
Northern Prawn Fishery							
Ross Sea Exploratory Toothfish Fishery in the CCAMLR Region							
Skipjack Tuna Fishery							
Small Pelagic Fishery				Yellow			
Southern & Eastern Scale fish & Shark Fishery							
Southern Bluefin Tuna Fishery							
Southern Squid Jig Fishery							
Torres Strait Beche-de-mer Fishery				Yellow		Yellow	Yellow
Torres Strait Crab Fishery							
Torres Strait Finfish Fishery	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow
Torres Strait Pearl Shell Fishery							
Torres Strait Prawn Fishery	Yellow	Yellow					Yellow
Torres Strait Trochus Fishery	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow
Torres Strait Tropical Rock Lobster Fishery	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow
Torres Strait Turtle & Dugong Fishery							
Western Trawl Fisheries							
Western Tuna & Billfish Fishery							

New South Wales Fisheries

Nine NSW fisheries comprising a total of twenty-five assessments were audited and all contained some reference to Indigenous fisheries (Appendix 1.4). Of these, eight were deemed to have addressed one or more of the NIFTWG principles (Table 1.21). Most of the submissions addressed various combinations of the principles, made reference to the 2004 NSW Indigenous Fisheries Strategy. Again, most submissions emphasised the need for data on Aboriginal catch in each fishery.

Table 1.21. NIFTWG Principles identified as being addressed in each New South Wales Fisheries Submission to DEE for the purposes of accreditation for export as per the EPBC Act 1999 Section 13A. (Based on data in Appendix 1.4). (Yellow square = appears to address, grey=not addressed).

NEW SOUTH WALES Submission on Ecological Sustainability	NIFTWG PRINCIPLES						
	1	2	3	4	5	6	7
Abalone Fishery	Yellow	Yellow	Grey	Grey	Yellow	Yellow	Yellow
Estuary General Fishery	Yellow	Grey	Yellow	Grey	Grey	Grey	Grey
Estuary Prawn Trawl	Yellow	Grey	Grey	Yellow	Yellow	Grey	Grey
Inland Restricted Fishery	Yellow	Grey	Grey	Grey	Grey	Grey	Grey
Lobster Fishery	Yellow	Grey	Grey	Yellow	Yellow	Yellow	Yellow
Ocean Hauling Fishery	Yellow	Yellow	Grey	Yellow	Grey	Grey	Yellow
Ocean Trap and Line Fishery	Yellow	Yellow	Grey	Yellow	Yellow	Yellow	Yellow
Ocean Trawl Fishery	Yellow	Yellow	Grey	Yellow	Yellow	Yellow	Yellow
Sea Urchin and Turban Shell Restricted Fishery	Grey	Grey	Grey	Grey	Grey	Grey	Grey

Northern Territory Fisheries

Eleven fisheries comprising a total of 34 assessments were audited of which twenty-three contained some reference to Indigenous fisheries (Appendix 1.4). Of these, ten fisheries were deemed to have addressed one or more of the NIFTWG principles (Table 1.22). Reference is made to the fact that there is limited on information Indigenous catch relating to these fisheries and that the catch is probably small.

Table 1.22. NIFTWG Principles identified as being addressed in each Northern Territory Fishery Submissions to DEE for the purposes of accreditation for export as per the EPBC Act 1999 Section 13A. (Based on data in Appendix 1.4). (Yellow square = appears to address, grey=not addressed).

NORTHERN TERRITORY Submission on Ecological Sustainability	NIFTWG PRINCIPLES						
	1	2	3	4	5	6	7
Aquarium Fishery	Grey	Grey	Grey	Grey	Grey	Yellow	Grey
Arafura Aquatic Fish Pty Ltd	Grey	Grey	Grey	Grey	Grey	Yellow	Yellow
Coastal Line Fishery	Grey	Grey	Grey	Grey	Grey	Grey	Grey
Demersal Fishery	Grey	Grey	Grey	Grey	Grey	Grey	Yellow
Finfish Trawl Fishery	Grey	Grey	Grey	Grey	Grey	Grey	Yellow
Giant Clam Aquaculture Trial	Yellow	Yellow	Grey	Grey	Grey	Yellow	Yellow
Mud Crab Fishery	Yellow	Grey	Grey	Yellow	Grey	Grey	Yellow
Offshore Net and Line Fishery	Yellow	Grey	Grey	Grey	Grey	Grey	Yellow
Spanish Mackerel Fishery	Yellow	Grey	Grey	Grey	Grey	Grey	Grey
Timor Reef Fishery	Yellow	Grey	Grey	Grey	Grey	Grey	Grey
Trepang Fishery	Grey	Grey	Grey	Yellow	Grey	Yellow	Yellow

Queensland Fisheries

Twenty-six fisheries comprising a total of eighty-seven assessments were audited of which sixty-seven assessments contained some reference to Indigenous fisheries (Appendix 1.4). Of these fisheries, seventeen were deemed to have addressed one or more of the NIFTWG

principles (Table 1.23). Reference is made to the fact that there is limited information on Indigenous catch relating to these fisheries.

Table 1.23. NIFTWG Principles identified as being addressed in each Queensland Fisheries Submission to DEE for the purposes of accreditation for export as per the EPBC Act 1999 Section 13A. (Based on data in Appendix 1.4). (Yellow square = appears to address, grey=not addressed).

QUEENSLAND Submission on Ecological Sustainability	NIFTWG PRINCIPLES						
	1	2	3	4	5	6	7
Blue Swimmer Crab Fishery							Yellow
Commercial Crayfish and Rock Lobster Fishery	Yellow	Yellow		Yellow	Yellow		
Coral Fishery							
Coral Reef Fin Fish Fishery			Yellow				
Deep Water Fin Fish Fishery				Yellow			
Developmental Jellyfish Fishery						Yellow	Yellow
Developmental Slipper Lobster Fishery							
East Coast Inshore Fin Fish Fishery		Yellow	Yellow	Yellow	Yellow		Yellow
East Coast Otter Trawl Fishery							
East Coast Pearl		Yellow		Yellow	Yellow		Yellow
East Coast Spanish Mackerel Fishery		Yellow	Yellow	Yellow	Yellow	Yellow	Yellow
East Coast Trochus Fishery		Yellow	Yellow	Yellow	Yellow		Yellow
Eel Fishery		Yellow		Yellow	Yellow		
Fin Fish (Stout Whiting) Trawl Fishery							
Gulf of Carpentaria Developmental Fin Fish Trawl Fishery		Yellow					
Gulf of Carpentaria Inshore Fin Fish Fishery	Yellow	Yellow			Yellow		Yellow
Gulf of Carpentaria Line Fishery		Yellow				Yellow	
Marine Aquarium Fish Fishery							
Marine Specimen Shell Fishery							
Moreton Bay Beche-de-mer Fishery		Yellow				Yellow	Yellow
Mud Crab Fishery		Yellow				Yellow	Yellow
River and Inshore Beam Trawl Fishery		Yellow				Yellow	Yellow
Rocky Reef Fin Fish Fishery						Yellow	Yellow
Sea Cucumber Fishery (East Coast)							
Queensland Schulz Fisheries Pty Ltd							
Spanner Crab Fishery							

South Australia Fisheries

Thirteen fisheries comprising a total of forty-three assessments were audited of which thirty-two assessments contained some reference to Indigenous fisheries (Appendix 1.4). Of these fisheries, eleven were deemed to have addressed one or more of the NIFTWG principles (Table 1.24). Reference is made to the fact that there is limited information on Indigenous catch relating to these fisheries and it is assumed by the agency that the catch is relatively small.

Table 1.24. NIFTWG Principles identified as being addressed in each South Australian Fisheries Submissions to DEE for the purposes of accreditation for export as per the EPBC Act 1999 Section 13A. (Yellow square = appears to address, grey=not addressed).

SOUTH AUSTRALIA	NIFTWG PRINCIPLES						
Submission on Ecological Sustainability	1	2	3	4	5	6	7
Abalone Fishery	Grey	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow
Beach-cast Marine Algae Fishery	Yellow	Yellow	Grey	Yellow	Yellow	Yellow	Grey
Blue Crab Fishery	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow
Giant Crab Fishery	Grey	Grey	Grey	Grey	Grey	Grey	Grey
Lakes and Coorong Fishery	Yellow	Yellow	Grey	Grey	Grey	Yellow	Yellow
Marine Scale-fish Fishery	Yellow	Grey	Yellow	Grey	Yellow	Yellow	Yellow
Sardine Fishery	Yellow	Grey	Grey	Grey	Grey	Grey	Grey
Prawn Trawl Fisheries	Grey	Grey	Yellow	Grey	Yellow	Yellow	Yellow
Rock Lobster Fishery	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow
Scallop and Turbo Fishery	Yellow	Yellow	Yellow	Yellow	Grey	Grey	Grey
Seahorse Marine Services	Grey	Grey	Grey	Grey	Grey	Grey	Grey
Sea Urchin Fishery	Grey	Yellow	Grey	Grey	Grey	Grey	Grey
Specimen Shell Fishery	Yellow	Grey	Grey	Yellow	Grey	Grey	Grey

Tasmania Fisheries

Fourteen fisheries comprising a total of thirty-six assessments were audited of which eighteen assessments contained some reference to Indigenous fisheries (Appendix 1.4). Of these fisheries, three were deemed to have addressed one or more of the NIFTWG principles (Table 1.25). Reference is made to the fact that there is limited information on Indigenous catch relating to these fisheries and it is assumed by the agency that the catch is relatively small.

Table 1.25. NIFTWG Principles identified as being addressed in each Tasmanian Fisheries Submissions to DEE for the purposes of accreditation for export as per the EPBC Act 1999 Section 13A. (Yellow square = appears to address, grey=not addressed).

TASMANIA	NIFTWG PRINCIPLES						
	1	2	3	4	5	6	7
Submission on Ecological Sustainability							
Abalone Fishery				Yellow	Yellow		Yellow
Aqua Marine Tasmania							
Commercial Dive Fishery							Yellow
Freshwater Eel Fishery							
Giant Crab Fishery							
Gould's Squid Fishery							
Marine Aquarium Fish Fishery							
Marine Plants Fishery							
Native Oyster Fishery	Yellow						
Octopus Fishery							
Richey Fishing Company - Australian Salmon							
Rock Lobster Fishery							
Scalaris Abalone Fishery							
Scallop Fishery							

Victoria Fisheries

Eleven fisheries comprising a total of thirty-two assessments of which fourteen assessments contained some reference to Indigenous fisheries (Appendix 1.4). Of these fisheries, three were deemed to have addressed one or more of the NIFTWG principles (Table 1.26). Reference is made to the fact that there is limited information on Indigenous catch relating to these fisheries and it is assumed by the agency that the catch is relatively small.

Table 1.26. NIFTWG Principles identified as being addressed in each Victorian Fisheries Submission to DEE for the purposes of accreditation for export as per the EPBC Act 1999 Section 13A. (Yellow square = appears to address, grey=not addressed).

VICTORIA	NIFTWG PRINCIPLES						
	1	2	3	4	5	6	7
Submission on Ecological Sustainability							
Abalone Fishery	Yellow			Yellow	Yellow		Yellow
Corner Inlet Fishery							
Eel Fishery	Yellow					Yellow	Yellow
Giant Crab Fishery							
Jellyfish Fishery							
Ocean-reef Aquaculture							
PQ Aquatics							
Rock Lobster Fishery	Yellow	Yellow	Yellow	Yellow	Yellow		Yellow
Scallop Dive (Port Phillip Bay) Fishery							
Scallop (Ocean) Fishery							
Sea Urchin Fishery							

Western Australia Fisheries

Thirty-two fisheries comprising a total of one hundred and six assessments of which fifty-two assessments contained some reference to Indigenous fisheries (Appendix 1.4). Of these fisheries, eight were deemed to have addressed one or two of the NIFTWG principles (Table 1.27). Reference is made to the fact that there is limited information on Indigenous catch relating to these fisheries and it is assumed by the agency that the catch is relatively small.

Table 1.27. NIFTWG Principles identified as being addressed in each Western Australian Fisheries Submissions to DEE for the purposes of accreditation for export as per the EPBC Act 1999 Section 13A. (Yellow square = appears to address, grey=not addressed).

WESTERN AUSTRALIA	NIFTWG PRINCIPLES						
	1	2	3	4	5	6	7
Submission on Ecological Sustainability							
Abalone Fishery						Yellow	
Abrolhos Coral & Live Rock							
Abrolhos Island & Mid-west Trawl Managed Fishery							
Broome Prawn Managed Fishery							
Cocos (Keeling) Islands Marine Aquarium Fish Fishery							
Exmouth Gulf Prawn Fishery							
Gascoyne Demersal Scale-fish (Shark Bay Snapper) Fishery		Yellow					Yellow
Kimberley Prawn Managed Fishery		Yellow					
Mackerel Fishery							
Marine Aquarium Fish Fishery							
Northern Demersal Scale-fish Managed Fishery							Yellow
Northern Developmental Blue Swimmer Crab Fishery							Yellow
Octopus Fisheries							
Onslow & Nickol Bay Prawn Managed Fisheries							
Pearl Oyster Fishery							
Pilbara Trap Fishery							
Pilbara Trawl Fishery							
Salmon Managed Fisheries							
Sea Cucumber Fishery							Yellow
Shark Bay Crab Interim Managed Fishery							
Shark Bay Prawn Fishery							
Shark Bay Scallop Fishery							
South Coast Crustacean Fishery							
South Coast Trawl Fishery							
Specimen Shell Managed Fishery							
Temperate Shark							
Tropical Shark							
Trochus Fishery						Yellow	
Tyrcraft Pty Ltd Giant Clams							
West Coast Rock Lobster Managed Fishery	Yellow						
West Coast & South Coast Purse Seine Managed Fisheries							
Western Australian West Coast Deep Sea Crustacean Managed Fishery							

Discussion – Section 1

The discussion is not intended to explore in depth all of the information presented in the tables in the results section. This is beyond the scope of the project which was to locate references to Indigenous fisheries in a range of fisheries documents available on the web and present that information.

The best use for the results section tables is as a quick reference guide in combination with the related appendices as to where to find current references to Indigenous fisheries in fisheries legislation, policy and management plans. It should be noted that in the appendices there is a quick link to the relevant document for each fishery plan, strategy, policy or submission. The discussion will however highlight some specific issues that have emerged from the audit process.

NIFTWG Principles

The use of the NIFTWG principles as a means of identifying whether various fisheries related documents addressed Indigenous fisheries issues from an Indigenous perspective proved somewhat useful in this project. Issues relating to recognition of Indigenous fisheries as a sector, protection of cultural fishing, allocation of catch to the sector, engagement of Indigenous people in fisheries management, capacity building and support to derive economic benefit are reasonably obvious in the principles. These principles match well with those identified in the 2014 Indigenous RD&E Cairns workshop (Calogeras et al 2014). However, the principles require additional detail to be more useful in any future similar audit process.

Two key issues not obvious in the NIFTWG principles are the protection of traditional fishing knowledge and the assessment of impacts of non-indigenous fisheries on Indigenous fisheries activities and opportunities. Both these issues have been raised by Indigenous people in various forums (see Smyth, 1993, Resource Assessment Commission 1993, Calogeras et al, 2011 and NAILSMA, 2013). Neither of these issues was directly addressed in any of the documents reviewed except for some fisheries management strategies developed by NSW Fisheries in the early to mid-2000's.

Based on the results of this audit it appears that the NIFTWG principles may have provided some informal guidance to various jurisdictions since they were developed in 2004. The diversity of adoption by jurisdictions of all of the principles in all fisheries documents probably has several explanations. The lack of formal adoption by jurisdictions may explain some of this diversity. It is also likely that in some cases fisheries agencies felt that there was no connection with a particular target species so there was no need to address the principles in the relevant management strategy, for example in the Toothfish fishery or Southern Blue-fin tuna fishery. Lack of relevant data on Indigenous fisheries and poor Indigenous engagement strategies may also have contributed to a lack of willingness to adopt the principles.

Legislation

The projects' audit of legislation revealed a spread of coverage of the NIFTWG Principles with some jurisdictions appearing to address many of the principles especially through a combination of both Acts and Regulations. Commonwealth legislation is very strong for the

Torres Strait Island region but not so for other waters under Commonwealth jurisdiction. The strength of the Torres Strait Fisheries Act (TSFA) 1984 is more than likely a direct result of the influence of the Torres Strait Treaty.

Few jurisdictions mention Indigenous fisheries in their objectives and fewer still explicitly state the need to protect those fisheries. The TSFA is unique in that it contains in its objects the need 'to acknowledge and protect the traditional way of life and livelihood of traditional inhabitants, including their rights in relation to traditional fishing'. The NSW FMA 1994 has an objective that emphasise the need to protect the continuation of Aboriginal cultural fishing.

A little more than half of the fisheries jurisdictions make a requirement for Indigenous involvement in management through identified positions on advisory or consultative committees. One jurisdiction has gone further than just individual Indigenous representation on committees and that is NSW. The NSW government has established a specific Aboriginal committee, AFAC under the FMA 1994. Its membership includes ten people from regions covering NSW as well as Native Title Services Corporation and the NSW Aboriginal Land Council. Its task is to provide strategic advice to the Minister on issues affecting Aboriginal fishing including fisheries management, access to fisheries, commercial opportunities, cultural awareness training, advice on research priorities, employment and training within fisheries.

The South Australian FMA 2007 makes provision for a 'native title group that is party to an Indigenous Land Use Agreement to make an Aboriginal traditional fishing management plan under the agreement for the management of specified aboriginal traditional fishing activities in a specified area of waters'. Currently there is one plan in place, the Yandruwandha Yawarrawarrka Traditional Fishing Management Plan.

Legislation in at least three jurisdictions provide some opportunities for Indigenous people to gain access to the commercial fishing industry. The TSFA has a specific objective in this regard which emphasises the desirability of promoting 'economic development in the Torres Strait area and employment opportunities for traditional inhabitants'.

The Northern Territory has an Aboriginal coastal licence (ACL) which is available to Aboriginal people living in a community. They can apply for the ACL which allows them to catch fish near their community and sell them to community members, visitors, community shops and fish wholesalers. There are restrictions on the types of gear that can be used, and ACL holders have to report on catch composition and size and how it is disposed of at the end of each month. ACL holders cannot work on a commercial fishing boat or transfer their licence to another person. ACLs are also restricted from targeting barramundi, king threadfin, Spanish mackerel, mud crab or trepang.

Queensland has an Indigenous Fishing Permit (IFP) which allows an Aboriginal or Torres Strait Islander person, or community, to trial a commercial fishing activity without having to acquire a commercial fishing authority. A person, or community, has to make an application to Queensland fisheries and provide a business plan and proof of Aboriginality. The IFP is granted for periods up to three years after which the holder has to buy or lease a commercial authority from the open market to be able to operate as a standard commercial fisher.

In NSW the establishment of an Aboriginal Fishing Trust (AFT) by the government under the FMA now provides a source of funds for an Aboriginal person to access in order to help maintain and existing commercial fishing licence or to acquire a licence. An application has to be made by the individual to the Trust which contains proof of Aboriginality. Advice on expenditure from the AFT is provided by the AFAC.

None of the legislations audited contained explicit provisions for the protection or use of Indigenous Traditional Fisheries Knowledge (TFK). TFK is a subset to Traditional Ecological Knowledge (TEK), which while not mentioned in the NIFTWG Principles, is the subject of an object in the EPBC Act which states the need to 'promote the use of Indigenous peoples' knowledge of biodiversity with the involvement of, and in co-operation with, the owners of the knowledge.'

This object has relevance for fisheries legislations in that the EPBC Act has a role through Part 13 in relation to ensuring the ecological sustainability of all fisheries in Australia that contain an export component.

Policy

The audit of policy also revealed a spread of coverage of the NIFTWG Principles with some jurisdictions appearing to address many of the principles in some of their policies. One jurisdiction, Victoria, addressed all seven principles in three of its 6 policy documents.

The *Commonwealth Fisheries Policy Statement* says very little about Indigenous fisheries and the *Commonwealth Fisheries Harvest Strategy Policy* which provides a framework for applying a science-based approach to setting harvest levels in Commonwealth Fisheries is silent on Indigenous fisheries.

The *Commonwealth Guidelines for the Ecologically Sustainable Management of Fisheries* were developed to assist each jurisdiction meet the requirements under the EPBC Act for ecologically sustainable fisheries management. This includes the strategic assessment of fisheries under Part 10 of the EPBC Act, assessments relating to impacts on protected marine species under Part 13 and assessments for the purpose of export approval under Part 13A.

The Guidelines outline two specific principles the first of which addresses the sustainability of target species in a fishery and the second addresses ecosystems impact from those fisheries (Department of the Environment and Water Resources, 2007). Reference to Indigenous fisheries can only be found in Guideline Principle 1 where the issue relates to the need to collect data to measure the potential impact of Indigenous fisheries on target species. There is no mention in Guideline Principle 2 of the need to assess the impact of non-indigenous fisheries on Indigenous cultural fishing.

Guideline Principle 2 supports the need to adopt an ecosystems-based approach to fisheries management and as such should address the place and role of Indigenous peoples in the ecosystem (see *Garcia et al 2003*). Ecosystems contain Indigenous communities as a key component that may be impacted by non-indigenous fisheries and their management. Also, of relevance here is the fact that an object of the EPBC Act requires the recognition of 'the role of Indigenous people in the conservation and ecologically sustainable use of Australia's biodiversity'.

New South Wales has a fisheries resource sharing policy which recognises the customary links between Aboriginal people and aquatic environments in relation to a reliance on fish for food, culture and economic development. It includes, as a guiding principle, the need to for the fisheries agency to respect existing access rights and arrangements so that other fisheries management arrangements address Aboriginal cultural fishing rights and access rights.

The Northern Territory also has a fisheries resource sharing framework which has a guiding principle that resource allocation will ensure the right of Aboriginal peoples to use aquatic resources in a traditional manner.

The *Queensland Sustainable Fisheries Strategy 2017* recognises the importance of Indigenous fisheries and proposes the development of better and more culturally appropriate engagement processes to address such issues as access, catch allocation, harvest strategies and economic opportunities.

South Australia has an allocation policy, a co-management policy and a harvest strategy policy that address Aboriginal fishing issues relating to access, use and management of fisheries resources in state waters.

Tasmania has a specific shellfish fishery policy which recognises the historical catch of shellfish by Aboriginal fishers and seeks to continue to allow Aboriginal people to access shellfish traditionally taken for noncommercial purposes. The policy also indicates that the development plans of management for the fishery have to be sent to Aboriginal groups for comment.

Victoria has implemented an Aboriginal Fishing Strategy that provides a guide for addressing Aboriginal fisheries issues (this is discussed later in this section of the report).

Western Australia fisheries policy statement states that the Government will ensure that Aboriginal customary fishing is managed within a sustainable fisheries management framework in accordance with its Aboriginal Customary Fishing Policy.

Fisheries Management Strategies and Plans

The projects' audit of fisheries management strategies and plans again revealed a spread of coverage of the NIFTWG Principles with some jurisdictions appearing to address all of the principles in some of their strategies and plans and others having negligible to zero inclusion.

Apart from the Torres Strait Island fisheries where all principles appeared to be addressed in the finfish, lobster and prawn fisheries, there is no mention in the harvest strategies of other Commonwealth fisheries of the principles. This could be because the agency, AFMA, decided there was no Indigenous connection with the relevant target species or they failed to adequately consider Indigenous peoples' connection with all, or some, of the Commonwealth managed species and/or fishery interactions with key species.

South Australia has been particularly comprehensive in addressing all of the principles throughout most of its management plans similarly NSW with its fisheries management strategies.

Tasmania, the northern Territory and Western Australia address very few of the principles and only in a very limited number of fisheries.

Victoria uniquely has ten recreational fisheries management plans, nine of which make reference to Indigenous fisheries addressing NIFTWG Principles 1 and 7 in particular. Other recreational fishing bodies ought to consider this approach and take into account their impacts on Indigenous cultural fishing.

Queensland appears to address none of the principles in any of its plans of management however, with the release of its new fisheries policy this situation may change.

A trend towards the development and use of harvest strategies to manage fisheries in some fisheries jurisdictions will potentially make it more likely that even fewer of the principles will be addressed. This is because harvest strategies focus on biological and economic considerations and only in a very limited way on social or cultural ones. It has been emphasised elsewhere 'that implementing a harvest strategy of itself will not achieve ecologically sustainable or profitable fisheries' other processes need to be in place in fisheries management to achieve broader ecosystem objectives (Department of Agriculture, Forestry and Fisheries 2007)). To address this the AFMA has adopted Ecosystem Based Fisheries Management (EBFM) as an overarching framework for Commonwealth fisheries management. State and Territory jurisdictions need to adopt this approach also. One caveat is that the EBFM approach in Australia should fully reflect worlds' best practice by ensuring that the Indigenous presence in ecosystems is recognised, acknowledged and protected.

Indigenous Fisheries Strategies

Only one jurisdiction, Victoria, has developed a specific Indigenous fisheries strategy. Currently, the Commonwealth, New South Wales, the Northern Territory, Queensland, South Australia, Tasmania and Western Australia don't have an Indigenous Fisheries Strategy.

Victoria currently has an Aboriginal Fisheries Strategy which focuses on achieving the recognition of Aboriginal customary fishing rights for recognised TOGs, better economic opportunities for all Aboriginal people in fishing and related industries, and sustainable fisheries management in collaboration with TOGs.

NSW developed and implemented an Indigenous Fisheries Strategy in 2003 which ultimately provided the impetus for the recognition in 2010 of Aboriginal cultural fisheries in the NSW FMA, the establishment of AFAC in 2011, the establishment of the AFT in 2016, cross cultural training for all fisheries departmental staff in 2017 and the trialing of the development of local Aboriginal fisheries management plans in 2018. This strategy is still a source of guidance for NSW fisheries staff.

Queensland and Western Australia began developing Indigenous fisheries strategies in the late 1990's but neither were implemented. More recently Queensland has foreshadowed the development of an Indigenous fisheries strategy in its newly released *Sustainable Fisheries Strategy 2017-2027*.

South Australia doesn't have an Indigenous fishing strategy, instead the State has developed a process in partnership with Aboriginal communities to tackle fisheries related

issues utilising Native Title and the associated ILUAs process. An ILUA can support the development of an Aboriginal traditional fishing management plan to ensure that Aboriginal people are able to enjoy, exercise and maintain their traditional fishing practices in a way that is sustainable. Such a plan can ensure that Aboriginal peoples manage their fishing activities according to both Aboriginal law and custom in parallel with the laws of the State. There is already one such plan in place, the Yandruwandha Yawarrawarrka Traditional Fishing Management Plan. This plan includes fisheries management arrangements for the Yandruwandha Yawarrawarrka ILUA area waters and includes information about: who can fish under the plan, allowed fishing activities, Aboriginal traditional fishing rights, possession limits, net and spear specifications and protection of culturally important species and areas.

Agency Submissions on ESD

The projects' audit of fisheries management plans from all jurisdictions submitted to the Commonwealth environment department for accreditation under the EPBC Act revealed that 87% of a total of 444 submissions over a period of 15 years made some reference to Indigenous fisheries. However most of these references were not directly related to the NIFTWG principles. Many of the references were along the lines of 'there is the lack of data available on Indigenous fisheries' or the assumption that 'the Indigenous take was negligible' or that 'the species was not targeted by indigenous fisheries. These were common themes across each fishery assessed and for each assessment of a particular fishery.

It is worth noting that from an early stage in the EPBC Act assessment process the feedback given by the Commonwealth environmental department strongly encouraged each jurisdiction to address this lack of data and subsequent submissions by agencies acknowledged this, but little has been done in this space. It is also worth noting that the data required is on estimates of Indigenous take for the purposes of assessing Indigenous impact on a target species.

There is little to zero mention of the need for data on the impacts of non-indigenous fisheries on Indigenous fisheries. This represents a potential gap in the guidelines developed to assist agencies making submissions to DEE (see Policy section of Discussion).

NSW is an exception as early submissions by the agency addressed the possible impacts of non-indigenous fisheries on Indigenous cultural fishing (see Umwelt Environmental Consultants 2001, 2002a, 2002b, 2004a, 2004b and 2005).

Most jurisdictions addressed some of the NIFTWG Principles in their ESD submissions Some jurisdictions appeared to address all of the principles while others revealed negligible inclusion.

Allocation of Catch (NIFTWG Principles 4 & 5)

The issue of a share in the overall allocation of fisheries stocks being managed for sustainability is a key issue impacting the ability of Indigenous communities to access and involvement in the use and management of those stocks. A proportion of fished stock biomass must be protected specifically for the use of Indigenous communities to ensure that their fishing rights can be fully explored and utilised. While the legislations and policies

in most jurisdictions touch on the issue of Indigenous allocation there are little if any specific strategies or actions in place to address this. South Australia has implemented an agreed allocation of a range of species to traditional owner groups. However, the amount is based on a proportion of the non-commercial (recreational) take of those species. A more equitable approach would have been to base the allocation on a proportion of the overall fishable biomass. Never-the-less South Australia's approach represents for other jurisdictions an example of how Indigenous allocation can be made more explicit.

Commercial fisheries access (NIFTWG Principles 6 and 7)

The question of limited access to commercial fisheries by Indigenous communities is another key issue that continues to impede the rights of those communities to an equitable share in the economic benefits derived from the harvest of, in many cases, species traditionally taken for generations. The audit revealed little in the way of legislative support for Indigenous access to commercial opportunities. Similarly, policy support is minimal.

Part of the reason for this, no doubt, is the definition provided for Indigenous fisheries in acts and policy which generally runs like this, '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, ceremonial or other traditional purposes, and which do not have a commercial purpose.' This definition reflects the sentiment expressed in Section 211 of the Native Title Act which emphasises that fishing as part of the enjoyment of native title rights and interest does not include a commercial component.

At present for an Indigenous person to derive economic benefits from their fisheries resources through for example commercial fishing requires them to become part of that industry by purchasing a licence or in some cases shares or quota. There is some Indigenous participation in commercial fisheries around Australia but the levels are not fully understood, except for in NSW (see Schnierer and Egan 2012). Factors impacting the level of participation include limited availability of licences in closed fisheries, an evolving management landscape that puts pressure on those few indigenous fishers in the commercial industry to leave and insufficient capacity to deal with these changes in ways that allow them to remain in the industry.

What is needed is an improvement in legislative and policy support backed up by innovative strategies that are aimed at increasing existing levels of Indigenous participation in the commercial industry. A review of existing strategies like the Northern Territory Aboriginal Coastal Licence system, the Queensland Indigenous Fisheries Permit system, the NSW Aboriginal Fishing Trust and the Torres Strait Island allocation of quota to traditional inhabitants' approach would be a good starting points. Another initiative would be to support changes to the Native Title Act to include the use of biological resources such as in fisheries resources for commercial purposes (see Aboriginal and Torres Strait Islander Social Justice Commissioner, 2008, Australia Law Reform Commission, 2015 and Productivity Commission, 2016).

Engagement in Management (NIFTWG Principle 7)

The matter of Indigenous people participating in fisheries management decision making process is central to their efforts in gaining equitable treatment in the management and

use of Australia's fisheries resources. The audit of legislation and policy found several references addressing participation in management but little in the way of strategies or operational processes that ensure this participation.

Approaches such as including an Indigenous person on a fisheries advisory committee goes part way towards addressing participation but without support in the form of capacity building for those individuals, diminishes their ability to fully participate. NSW has established the AFAC as an advisory structure on all matters relating to Aboriginal fisheries which in turn supports Indigenous individual on other advisory committees.

The audit did not find for example an Indigenous engagement strategy or operational plan for any of the jurisdictions. The development of such a strategy would provide a guide for agencies in deciding on a mix of approaches that might include grass roots communities' structures feeding into specific Indigenous advisory committees through to the inclusion of Indigenous individuals on broader fisheries advisory committees.

Indigenous capacity building (NIFTWG Principle 7)

The ability of Indigenous peoples to engage effectively in the management and use fisheries resources is also impacted by a limited understanding of Western approaches to fisheries management and the scientific basis for those approaches. There was little evidence of legislative, policy or strategy support for this.

Conclusions – Section 1

The projects audit process successfully located 669 fisheries related documents including 21 pieces of legislation, 56 fisheries policy documents, 148 fisheries plans and strategies, and 444 fisheries agency ESD submissions covering 142 commercial fisheries across all jurisdictions.

The audit found there was varying degrees of inclusion of the NIFTWG principles in fisheries legislation, policy, management and strategies across Commonwealth, State and Territory jurisdictions. This inclusion varied from all seven principles being addressed in approximately 4% of documents audited to zero addressed in 53% of documents.

The NIFTWG Principles proved a useful guide for reviewing the documents sourced for this audit but for any future process the principles need to be reviewed to include specific mention of the need to protect IFK and the need to assess the impacts of non-indigenous fisheries on Indigenous cultural fishing practices.

Development of more focussed strategies is needed from each jurisdiction in support of Indigenous rights to an equitable of allocation of catch, access to commercial fisheries opportunities, engagement in fisheries management and capacity building for management and use of fisheries resources.

Implications – Section 1

It will take time for the impacts of outcomes on end users such as management in particular but already there has been a diffusion of information from the project into decision making spaces, see the section on extension and adoption below.

For Indigenous end users making some of the findings from this section of the project will be facilitated through a recently commenced FRDC project 2017-069 in the form of education content and key messages developed through a new project the FRDC IRG is supporting to commence in 2019 ('Identify and synthesizing key messages from IRG projects').

Recommendations – Section 1

The research team recommends:

1. The development of a more comprehensive set of national Indigenous fishing principles to further guide the development, implementation and monitoring of Indigenous fisheries policy across all jurisdictions. This process could build on the existing NIFTWG Principles with a view to developing a clearer and more comprehensive statement or policy on Indigenous fisheries with guidelines for implementation. (Any such development would require the full and effective participation of Indigenous peoples especially those engaged in fisheries related activities.)
2. The inclusion of an object within fisheries acts for all jurisdictions that specifically addresses Indigenous cultural fishing.
3. The inclusion of a provision with in all fisheries acts for the establishment of Indigenous fisheries advisory committees.
4. The development of provisions within all fisheries legislation to identify, measure and address impacts of non-indigenous fisheries on Indigenous fisheries.
5. A review of the ESD guidelines to include the assessment of the impacts of non-Indigenous fisheries on Indigenous cultural fishing.
6. The development of provisions within in all fisheries legislation to protect and enhance Traditional Fishing Knowledge
7. The development of innovative models that provide Indigenous people with access to commercial fishing opportunities.
8. The development of models of allocation that are based on a proportion of the total fishable biomass.

Extension and Adoption – Section 1

Extension of the projects findings was initially attempted through the Project Steering Committee (PSC) set up to oversee the running of the project. However, as a result of a number of unforeseen events that interrupted the project, including delays at the start with the contract, a drawn out novation process when the projects administration was moved from the University to a private consultant and some serious health issues which at least one of the research team members, meetings with the PSC were intermittent.

Other means of extension have included contributions to various government reviews and inquiries including;

- Content contribution to the IRG submission to the Productivity Commission Inquiry into the Regulation of Australian Marine Fisheries and Aquaculture Sectors by the Principal Investigator in May 2016
- Content contribution to the IRG submission on the Draft Report of the Productivity Commission Inquiry into the Regulation of Australian Marine Fisheries and Aquaculture Sectors by the Principal Investigator in October 2016
- A submission in June 2017 by the Principal Investigator on the Australian Fisheries Management Authority's *Ecological Risk Management policy 2017* as outlined in the draft Fisheries Management Paper 14. (see Appendix 7 for Submission and response from AFMA)
- An electronic submission in August 2018 by the Principal Investigator to the Commonwealths Environment Department addressing the Queensland governments submissions for the reassessment of the Queensland Mud Crab Fishery and the Queensland Blue Swimmer Crab Fishery, for the purposes of Wildlife Trade Operation.

The Principal Investigator has provided regular updates on the developing project findings to following fisheries advisory bodies, FRDC's IRG, the NSW MFAC and the NSW AFAC.

The Principal Investigator has provided information to the research teams undertaking the following FRDC projects; 2013-18: Building Capacity and Performance of Indigenous Fisheries, and 2017-069.: Indigenous Capacity Building Program.

Project coverage

In 2016, during the course of this project some findings and results were shared with the Australian Governments Productivity Commission which at the time was undertaking an inquiry into the regulatory burden imposed on the Australian marine fisheries and aquaculture sectors.

A presentation was also given by the Principal Investigator at one the public hearings for the inquiry which was held in Brisbane on the 12th of October 2016. Content from both contributions was incorporated into Chapter 5 of the Productivity Commissions Report (see Productivity Commission 2016).

Project materials developed – Section 1

NA.

References - Section 1

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Appendices – Section 1

Appendix 1.1: Excerpts from International Agreements, Statements, Conventions, Codes, Guidelines in support of Indigenous fisheries rights and interests.

1.1.1 United Nations Declaration on the Rights of Indigenous Peoples

UNDRIP is a non-binding document adopted at the UN General Assembly on September 13, 2007. Subsequently, the Australian Government issued a formal statement of support for the UNDRIP on 3 April 2009.

Table 1.1.1: UNDRIP articles relevant to Indigenous Australian fisheries rights and interests (see United Nations Declaration on the Rights of Indigenous Peoples)

Article and Subsection	Text
8 Subsections 2 (a) and (b)	States shall provide effective mechanisms for prevention of, and redress for: (a) Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities; (b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources;
25	Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.
26 Subsections 1, 2 and 3	<ol style="list-style-type: none"> 1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired. 2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired; 3. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.
27	States shall establish and implement, in conjunction with indigenous peoples concerned, a fair, independent, impartial, open and transparent process, giving due recognition to indigenous peoples' laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of indigenous peoples pertaining to their lands, territories and resources, including those which were traditionally owned or otherwise occupied or used. Indigenous peoples shall have the right to participate in this process.
28 Subsections 1 and 2	<ol style="list-style-type: none"> 1. Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent. 2. Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and

	resources equal in quality, size and legal status or of monetary compensation or other appropriate redress.
29 Subsection 1	Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination.
31 Subsections 1 and 2	<ol style="list-style-type: none"> 1. Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions. 2. In conjunction with indigenous peoples, States shall take effective measures to recognize and protect the exercise of these rights.
32 Subsections 1, 2 and 3	<ol style="list-style-type: none"> 1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources. 2. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources. 3. States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

1.1.2 The Food and Agricultural Organisation: Code of Conduct for Responsible Fisheries

The CCRF was initiated in 1991 by the FAO Committee on Fisheries. The code was unanimously adopted on 31 October 1995 by the over 170-member Governments of the FAO Conference (including Australia). The Code is voluntary.

Table 1.1.2: Section of the Food and Agricultural Organisation: Code of Conduct for Responsible Fisheries relevant to Indigenous Australian fisheries rights and interests (see FAO CCRF 1995)

Section	Text
7.6.6	When deciding on the use, conservation and management of fisheries resources, due recognition should be given, as appropriate, in accordance with national laws and regulations, to the traditional practices, needs and interests of indigenous people and local fishing communities which are highly dependent on fishery resources for their livelihood.

1.1.3 The Food and Agriculture Organization of the United Nations: Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication

The SSF Guidelines complement the Code of Conduct for Responsible Fisheries, which, alongside the fishing provisions of the UN Convention on the Law of the Sea, is the most widely recognized and implemented international fisheries instrument. The SSF Guidelines are closely related to the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forestry in the Context of National Food Security, the Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security, and the Principles for Responsible Investment in Agriculture and Food Systems. Like these instruments, the SSF Guidelines place a high priority on the realization of human rights and on the need to attend to vulnerable and marginalized groups.

The SSF Guidelines are a fundamental tool in support of FAO’s vision to eradicate hunger and promote sustainable development. They will guide dialogue, policy processes and actions at all levels and help the sector to realize its full contribution to food security and poverty eradication.

Table 1.1.3: Sections of the FAO ‘Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication’ relevant to Indigenous Australian fisheries rights and interests.

Section	Text
3.Guiding Principles	2. Respect of cultures: recognizing and respecting existing forms of organization, traditional and local knowledge and practices of small-scale fishing communities, including indigenous peoples and ethnic minorities encouraging women leadership and taking into account Art. 5 of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).
	6. Consultation and participation: ensuring active, free, effective, meaningful and informed participation of small-scale fishing communities, including indigenous peoples, taking into account the UN Declaration on the Rights of Indigenous Peoples (UN DRIP) in the whole decision-making process related to fishery resources and areas where small scale fisheries operate as well as adjacent land areas, and taking existing power imbalances between different parties into consideration. This should include feedback and support from those who could be affected by decisions prior to these being taken and responding to their contributions.
5a. Responsible governance of tenure	5.3 States, in accordance with their legislation, should ensure that small-scale fishers, fish workers and their communities have secure, equitable, and socially and culturally appropriate tenure rights to fishery resources (marine and inland) and small-scale fishing areas and adjacent land, with a special attention paid to women with respect to tenure rights.

<p>5.4 States, in accordance with their legislation, and all other parties should recognize, respect and protect all forms of legitimate tenure rights, taking into account, where appropriate, customary rights to aquatic resources and land and small-scale fishing areas enjoyed by small-scale fishing communities. When necessary, in order to protect various forms of legitimate tenure rights, legislation to this effect should be provided. States should take appropriate measures to identify, record and respect legitimate tenure right holders and their rights. Local norms and practices, as well as customary or otherwise preferential access to fishery resources and land by small-scale fishing communities including indigenous peoples and ethnic minorities, should be recognized, respected and protected in ways that are consistent with international human rights law. The UN DRIP and the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities should be taken into account, as appropriate. Where constitutional or legal reforms strengthen the rights of women and place them in conflict with custom, all parties should cooperate to accommodate such changes in the customary tenure systems.</p>
<p>5.5 States should recognize the role of small-scale fishing communities and indigenous peoples to restore, conserve, protect and co-manage local aquatic and coastal ecosystems.</p>
<p>5.7 Taking due account of Art. 6.18 of the Code, States should where appropriate grant preferential access of small-scale fisheries to fish in waters under national jurisdiction, with a view to achieving equitable outcomes for different groups of people, in particular vulnerable groups. Where appropriate, specific measures, inter alia, the creation and enforcement of exclusive zones for small-scale fisheries, should be considered. Small-scale fisheries should be given due consideration before agreements on resource access are entered into with third countries and third parties.</p>
<p>5.8 States should adopt measures to facilitate equitable access to fishery resources for small-scale fishing communities, including, as appropriate, redistributive reform, taking into account the provisions of the Voluntary Guidelines on Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security.</p>
<p>5.9 States should ensure that small-scale fishing communities are not arbitrarily evicted and that their legitimate tenure rights are not otherwise extinguished or infringed. States should recognize that competition from other users is increasing within small-scale fisheries areas and that small-scale fishing communities, in particular vulnerable and marginalized groups, are often the weaker party in conflicts with other sectors and may require special support if their livelihoods are threatened by the development and activities of other sectors.</p>
<p>5.10 States and other parties should, prior to the implementation of large-scale development projects that might impact small-scale fishing communities, consider the social, economic and environmental impacts through impact studies, and hold effective and meaningful consultations with these communities, in accordance with national legislation.</p>

	<p>5.11 States should provide small-scale fishing communities and individuals, including vulnerable and marginalized people, access through impartial and competent judicial and administrative bodies to timely, affordable and effective means of resolving disputes over tenure rights in accordance with national legislation, including alternative means of resolving such disputes, and should provide effective remedies, which may include an entitlement to appeal, as appropriate. Such remedies should be promptly enforced in accordance with national legislation and may include restitution, indemnity,</p>
b. Sustainable resource management	<p>5.15 States should facilitate, train and support small-scale fishing communities to participate in and take responsibility for, taking into consideration their legitimate tenure rights and systems, the management of the resources on which they depend for their well-being and that are traditionally used for their livelihoods. Accordingly, States should involve small-scale fishing communities – with special attention to equitable participation of women, vulnerable and marginalized groups – in the design, planning and, as appropriate, implementation of management measures, including protected areas, affecting their livelihood options. Participatory management systems, such as co-management, should be promoted in accordance with national law.</p>
6. Social development, employment and decent work	<p>6.2 States should promote investment in human resource development such as health, education, literacy, digital inclusion and other skills of a technical nature that generate added value to the fisheries resources as well as awareness raising. States should take steps with a view to progressively ensure that members of small-scale fishing communities have affordable access to these and other essential services through national and subnational actions, including adequate housing, basic sanitation that is safe and hygienic, safe drinking-water for personal and domestic uses, and sources of energy. Preferential treatment of women, indigenous peoples, and vulnerable and marginalized groups – in providing services and giving effect to non-discrimination and other human rights – should be accepted and promoted where it is required to ensure equitable benefits.</p>
9. Disaster risks and climate change	<p>9.2 All parties should recognize and take into account the differential impact of natural and human-induced disasters and climate change on small-scale fisheries. States should develop policies and plans to address climate change in fisheries, in particular strategies for adaptation and mitigation, where applicable, as well as for building resilience, in full and effective consultation with fishing communities including indigenous peoples, men and women, paying particular attention to vulnerable and marginalized groups. Special support should be given to small-scale fishing communities living on small islands where climate change may have particular implications for food security, nutrition, housing and livelihoods.</p>
10. Policy coherence, institutional coordination and collaboration	<p>10.1 States should recognize the need for and work towards policy coherence with regard to, inter alia: national legislation; international human rights law; other international instruments, including those related to indigenous peoples; economic development policies; energy, education, health and rural policies; environmental protection; food security and nutrition policies; labour and employment policies; trade policies; disaster risk management (DRM) and climate change adaptation (CCA) policies; fisheries access arrangements; and other fisheries sector policies, plans, actions and investments in order to promote holistic development in small-scale fishing communities. Special attention should be paid to ensuring gender equity and equality.</p>

	<p>10.2 States should, as appropriate, develop and use spatial planning approaches, including inland and marine spatial planning, which take due account of the small-scale fisheries interests and role in integrated coastal zone management. Through consultation, participation and publicizing, gender-sensitive policies and laws on regulated spatial planning should be developed as appropriate. Where appropriate, formal planning systems should consider methods of planning and territorial development used by small-scale fishing and other communities with customary tenure systems, and decision-making processes within those communities.</p>
	<p>10.4 States should ensure that fisheries policy provides a long-term vision for sustainable small-scale fisheries and the eradication of hunger and poverty, using an ecosystem approach. The overall policy framework for fisheries should be coherent with the long-term vision and policy framework for small-scale fisheries and human rights, paying particular attention to vulnerable and marginalized people.</p>
<p>11. Information, research and communication</p>	<p>11.6 All parties should ensure that the knowledge, culture, traditions and practices of small-scale fishing communities, including indigenous peoples, are recognized and, as appropriate, supported, and that they inform responsible local governance and sustainable development processes. The specific knowledge of women fishers and fish workers must be recognized and supported. States should investigate and document traditional fisheries knowledge and technologies in order to assess their application to sustainable fisheries conservation, management and development.</p>
	<p>11.7 States and other relevant parties should provide support to small-scale fishing communities, in particular to indigenous peoples, women and those that rely on fishing for subsistence, including, as appropriate, the technical and financial assistance to organize, maintain, exchange and improve traditional</p>

1.1.4. United Nations Convention on Biological Diversity

The Convention on Biological Diversity (CBD) entered into force on 29 December 1993. It has 3 main objectives: the conservation of biological diversity, the sustainable use of the components of biological diversity and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources.

The international community has recognized the close and traditional dependence of many indigenous and local communities on biological resources, notably in the preamble to the Convention on Biological Diversity. There is also a broad recognition of the contribution that traditional knowledge can make to both the conservation and the sustainable use of biological diversity, two fundamental objectives of the Convention.

Table 1.1.4: Sections of the United Nations Convention on Biological Diversity relevant to Indigenous Australian fisheries rights and interests.

Section	Text
<u>Preamble</u>	Recognizing the close and traditional dependence of many indigenous and local communities embodying traditional lifestyles on biological resources, and the desirability of sharing equitably benefits arising from the use of traditional knowledge, innovations and practices relevant to the conservation of biological diversity and the sustainable use of its components
<u>Article 8.</u> In-situ Conservation Subsection (j)	Each Contracting Party shall, as far as possible and as appropriate: (j) Subject to its national legislation, respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices;
<u>Article 10.</u> Sustainable Use of Components of Biological Diversity Subsection (c)	Each Contracting Party shall, as far as possible and as appropriate: (c) Protect and encourage customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements;

1.1.5 Akwé:Kon : Voluntary guidelines for the conduct of cultural, environmental and social impact assessments regarding developments proposed to take place on, or which are likely to impact on, sacred sites and on lands and waters traditionally occupied or used by indigenous and local communities

The UN CBD recognises and acknowledges that indigenous communities have used biological diversity in sustainable ways for thousands of years and their cultures and knowledge are deeply rooted in the environment on which they depend. As a result, developments proposed to take place on lands and waters traditionally occupied by indigenous communities are a source of concern to these communities because of the potential long-term negative impacts on their livelihoods and traditional knowledge.

To address this concern Parties to the Convention developed, in cooperation with indigenous communities, guidelines for the conduct of cultural, environmental and social impact assessments (Akwé:Kon) which were adopted at the seventh meeting of the Conference of the Parties. It is expected that impact assessment procedures and methodologies embodied in the Voluntary Guidelines will play a key role in providing information on the cultural, environmental and social impacts of proposed developments and, thereby, help to prevent their potential adverse impacts on the livelihoods of indigenous and local communities concerned.

Table 1.1.5: Sections of the UNCBD Akwé:Kon guidelines relevant to Indigenous Australian fisheries rights and interests.

Section	Text
I. Purpose and Approach	1. The Guidelines are voluntary and intended to serve as guidance for Parties and Governments, subject to their national legislation, in the development and implementation of their impact-assessment regimes. The guidelines should be taken into consideration whenever developments are proposed to take place on, or which are likely to impact on, sacred sites and on lands and waters traditionally occupied or used by indigenous and local communities.
A. Cultural impact assessments: Subsection 27 (a) and (b)	27. In determining the scope of a cultural impact assessment, the following should be considered: (a) Possible impacts on continued customary use of biological resources; (b) Possible impacts on the respect, preservation, protection and maintenance of traditional knowledge, innovations and practices;
1. Possible impacts on continued customary use of biological resource: Subsection 28	28. The assessment should take the customary uses of biological resources that meet the requirements of the Convention, particularly in relation to Article 10(c), fully into consideration, as the diminution of the genetic diversity maintained and fostered by such customary use may lead to a loss of associated traditional knowledge, innovations and practices.

Section	Text
<p>2. Possible impacts on the respect, preservation, protection and maintenance of traditional knowledge, innovations and practices (Subsection 29)</p>	<p>29. In the conduct of cultural impact assessments, due consideration should be given to the holders of traditional knowledge, innovations and practices and the knowledge itself. Customary laws governing ownership, access, control, use and dissemination of traditional knowledge, innovations and practices should be observed. Protocols with regard to indigenous and local communities should be followed with regard to the disclosure of secret and or sacred knowledge, including those that may involve public hearings and judicial processes in the courts. In the event of the disclosure of secret and or sacred knowledge, prior informed consent and proper protection measures should be ensured.</p>

1.1.6 UNCED Agenda 21 1992

Agenda 21 is a United Nations non-binding action plan with regard to sustainable development implemented in 1992. It is an action agenda for the UN, other multilateral organizations, and individual governments around the world that can be executed at local, national, and global levels. Specifically, Chapter 26^[17] seeks to recognise and strengthen role of Indigenous people and their communities. It states in part that, in view of the interrelationship between indigenous peoples and the environment, that national efforts to implement environmentally sound and sustainable development should recognize, accommodate, promote and strengthen the role of indigenous people and their communities.

Table 1.1.6: Agenda 21 objectives relevant to Indigenous Australian fisheries rights and interests (see Agenda 21)

Section	Text
Principle	Indigenous people and their communities and other local communities have a vital role in environmental management and development because of their knowledge and traditional practices. States should recognize and duly support their identity, culture and interests and enable their effective participation in the achievement of sustainable development.
Objective	<p>26.3. In full partnership with indigenous people and their communities, Governments and, where appropriate, intergovernmental organizations should aim at fulfilling the following objectives:</p> <p>Establishment of a process to empower indigenous people and their communities through measures that include:</p> <ul style="list-style-type: none"> i. Adoption or strengthening of appropriate policies and/or legal instruments at the national level; ii. Recognition that the lands of indigenous people and their communities should be protected from activities that are environmentally unsound or that the indigenous people concerned consider to be socially and culturally inappropriate; iii. Recognition of their values, traditional knowledge and resource management practices with a view to promoting environmentally sound and sustainable development; iv. Recognition that traditional and direct dependence on renewable resources and ecosystems, including sustainable harvesting, continues to be essential to the cultural, economic and physical well-being of indigenous people and their communities; v. Development and strengthening of national dispute-resolution arrangements in relation to settlement of land and resource-management concerns; vi. Support for alternative environmentally sound means of production to ensure a range of choices on how to improve their quality of life so that they effectively participate in sustainable development; vii. Enhancement of capacity-building for indigenous communities, based on the adaptation and exchange of traditional experience, knowledge and resource-management practices, to ensure their sustainable development; <p>Establishment, where appropriate, of arrangements to strengthen the active participation of indigenous people and their communities in the national formulation of policies, laws and programmes relating to resource management and other development processes that may affect them, and their initiation of proposals for such policies and programmes;</p> <p>Involvement of indigenous people and their communities at the national and local levels in resource management and conservation strategies and other relevant programmes established to support and review sustainable development strategies, such as those suggested in other programme areas of Agenda 21.</p>

Appendix 1.2: Sections of fisheries legislation relating to Indigenous fisheries for each jurisdiction in Australia. (Note: Principles=NIFTWG Principles).

Table 1.2.1: Commonwealth Fisheries Legislation (Fisheries Management Act 1991, Fisheries Administration Act 1991, Fisheries Management Regulations 1992, Torres Strait Fisheries Act 1984 and Torres Strait Fisheries Regulations 1985).

<i>Fisheries Management Act 1991</i>		
Section	Text	Principles
Part 1. Preliminary Section 3. Objectives Subsection (2)(e)	(2) In addition to the objectives mentioned in subsection (1), or in section 78 of this Act, the Minister, AFMA and Joint Authorities are to have regard to the objectives of: (e) ensuring that the interests of commercial, recreational and Indigenous fishers are taken into account.	5
<i>Fisheries Administration Act 1991</i>		
Section	Text	Principles
Part 2. Australian Fisheries Management Authority Division 1. Establishment, functions and powers of Authority Section 6. Objectives Subsection (2)	(2) In addition to the objectives mentioned in subsection (1), the Authority, in the performance of its functions, is to have regard to the objective of ensuring that the interests of commercial, recreational and Indigenous fishers are taken into account.	5
Part 2. Australian Fisheries Management Authority Division 3. Appointment of commissioners Section 12. Appointment of commissioners	(1) The Chairperson of the Commission, the other part-time commissioners and the CEO are to be appointed by the Minister by written instrument. (2) The CEO may also be appointed as the Chairperson of the Commission but must not otherwise hold office as a part-time commissioner. (3) To be eligible for appointment as a commissioner, an individual, at the time of appointment: (a) must have a high level of expertise in one or more of the following: (i) fisheries management; (ii) fishing industry operations; (iia) matters relating to recreational or Indigenous fishing;	7
<i>Fisheries Management Regulations 1992</i>		
Section	Text	Principles
Part 8 s. 28	The vessel shall be operated in such a way that the activities of traditional and locally based fishermen and fishing vessels are not disrupted or in any other way adversely affected.	
<i>Torres Strait Fisheries Act 1984</i>		
Section	Text	Principles
Part I. Preliminary	(1) In this Act, unless the contrary intention appears:	1, 2, 5, 6

<p>Section 3. Interpretation Subsections (1), (2), (3) & (5)</p>	<p><i>commercial fishing</i> means fishing for commercial purposes but does not include traditional fishing.</p> <p><i>commercial fishing licence</i> means a licence that is in force under subsection 19(2) or (4).</p> <p><i>community fishing</i> means commercial fishing carried on by:</p> <p>(a) a person who is, or 2 or more persons each of whom is, both a traditional inhabitant and an Australian citizen (not being a person who is, in the course of that fishing, under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of another person who is not both an Australian citizen and a traditional inhabitant); or</p> <p>(b) a person or persons of the kind referred to in paragraph (a) and another person or other persons employed by:</p> <p>(i) the first-mentioned person or persons; or</p> <p>(ii) the Commonwealth, Queensland, an authority of the Commonwealth or an authority of Queensland;</p> <p>to provide the first-mentioned person or persons with training or advice in relation to fishing techniques.</p> <p><i>Protected Zone</i> means the area the boundaries of which are described in Annex 9 to the Torres Strait Treaty,</p> <p><i>Torres Strait Treaty</i> means the Treaty between Australia and the Independent State of Papua New Guinea concerning sovereignty and maritime boundaries in the area between the two countries, including the area known as the Torres Strait, and related matters that was signed at Sydney on 18 December 1978, being the treaty a copy of which, apart from Annexes 2, 4, 6 and 7 to that treaty, is set out in the Schedule.</p> <p><i>traditional fishing</i> has the same meaning as in the Torres Strait Treaty, but does not include fishing by a method, or with the use of equipment or a boat, of a kind specified in an instrument in force under subsection (2).</p> <p><i>traditional inhabitant</i> means:</p> <p>(a) a person covered by the definition of <i>traditional inhabitants</i> in Article 1 of the Torres Strait Treaty (as affected by subsection (3)); or</p> <p>(b) a person prescribed by the regulations.</p> <p>(2) The Minister may, by legislative instrument, declare that the taking by traditional inhabitants of fish by a method, or with the use of equipment or a boat, of a kind specified in the instrument is not traditional fishing.</p> <p>(3) For the purposes of this Act:</p> <p>(a) the reference in the definition of <i>traditional inhabitants</i> in Article 1 of the Torres Strait Treaty to the adjacent coastal area of Australia shall be read as a reference to any area adjacent to the Protected Zone and to the south of the line described in Annex 5 to the Torres Strait Treaty that is declared by the Minister, by legislative instrument, to be part of the adjacent coastal area of Australia;</p> <p>(5) References in this Act to activities carried on for private purposes or to fishing for private purposes shall be read as not including references to activities carried on in the course of traditional fishing.</p>	
<p>Part I. Preliminary Section 5. Application of Act in certain waters Subsection (4)</p>	<p>(4) Where there is in force a Proclamation under subsection 15(2) in relation to an area (in this subsection referred to as the <i>relevant area</i>), this Act does not apply in relation to any activities carried on in the relevant area other than:</p> <p>(a) activities by way of traditional fishing; or</p>	<p>1, 2</p>

<p>Part II. Administration Section 8. Objectives to be pursued</p>	<p>In the administration of this Act, regard shall be had to the rights and obligations conferred on Australia by the Torres Strait Treaty and in particular to the following management priorities: (a) to acknowledge and protect the traditional way of life and livelihood of traditional inhabitants, including their rights in relation to traditional fishing; (c) to adopt conservation measures necessary for the conservation of a species in such a way as to minimise any restrictive effects of the measures on traditional fishing; (d) to administer the provisions of Part 5 of the Torres Strait Treaty (relating to commercial fisheries) so as not to prejudice the achievement of the purposes of Part 4 of the Torres Strait Treaty in regard to traditional fishing; (g) to have regard, in developing and implementing licensing policy, to the desirability of promoting economic development in the Torres Strait area and employment opportunities for traditional inhabitants.</p>	<p>1, 3, 6, 7</p>
<p>Part II. Administration Section 13. Minister to seek views of traditional inhabitants</p>	<p>The Minister shall, when he or she considers it appropriate to do so, seek the views of the members of the Joint Advisory Council established under Article 19 of the Torres Strait Treaty who are traditional inhabitants and Australian citizens on any matter relating to the administration of this Act that may affect the interests of traditional inhabitants who are Australian citizens.</p>	<p>7</p>
<p>Part III. Regulation of fishing Section 14. Minister may require information to be furnished Subsection (3)</p>	<p>(3) The Minister may, by legislative instrument, require a relevant person who: (a) takes delivery of fish included in a class of fish specified in the instrument from another person; and (b) knows, or has reasonable grounds to believe, that the other person is both a traditional inhabitant and an Australian citizen; to furnish to the Minister, at such time and in such manner as is specified in the instrument, information relating to the quantity of fish so delivered.</p>	<p>7</p>
<p>Part III. Regulation of fishing Section 15A. Management plans Subsection (2A)</p>	<p>(2A) The objectives to be set out under paragraph (2)(a) must be consistent with, but are not limited to, the objectives set out in section 8.</p>	<p>1, 3, 6, 7</p>
<p>Part III. Regulation of fishing Section 16. Regulation of fishing Subsection (1)</p>	<p>(1) Subject to this section, the Minister may, by legislative instrument: (d) prohibit the taking, processing, carrying or storage, in the course of community fishing, of fish, or fish included in a class of fish specified in the instrument, with the use of equipment, a boat or land facilities owned by, or under the control of, persons other than persons who are included in a class of persons specified in the instrument; or (m) prohibit the taking of fish, or fish included in a class of fish specified in the instrument, otherwise than in the course of community fishing or traditional fishing; or (n) where there is an instrument in force under paragraph (m) in relation to fish of a certain kind, prohibit the processing of fish of that kind in an area of Australian jurisdiction or in an area declared under subsection 3(3) to be part of the adjacent coastal</p>	<p>6, 7</p>

	area of Australia otherwise than in the course of community fishing or traditional fishing; or	
Part IV. Licences, endorsements and entries Section 17. Licences may be required for taking fish in the course of community fishing	See subsections (1AA) to 1(A)	6, 7
Part V. Protected Zone Joint Authority Section 28. Interpretation Subsection (1)	(1) In this Part, unless the contrary intention appears: <i>Chairperson of the TSRA</i> means: (a) subject to paragraph (b), the person for the time being holding office as Chairperson of the TSRA pursuant to an election held under section 143L of the <i>Aboriginal and Torres Strait Islander Act 2005</i> ; or <i>TSRA</i> means the Torres Strait Regional Authority established by section 142 of the <i>Aboriginal and Torres Strait Islander Act 2005</i> .	1, 5, 7
Part V. Protected Zone Joint Authority Section 30. Establishment of Protected Zone Joint Authority Subsection (2)	(2) The Protected Zone Joint Authority consists of: (c) the Chairperson of the TSRA.	1, 5, 7
Part V. Protected Zone Joint Authority Section 39. Protected Zone Joint Authority to seek views of traditional inhabitants	The Protected Zone Joint Authority shall, where it considers it appropriate to do so, seek the views of members of the Joint Advisory Council established under Article 19 of the Torres Strait Treaty who are traditional inhabitants and Australian citizens on any matter relating to a Protected Zone Joint Authority fishery where that matter may affect the interests of traditional inhabitants who are Australian citizens.	1, 5
Part VI. Enforcement Division 2. Offences Section 45. Offences relating to commercial fishing Subsection (1)	(1) A person shall not: (a) engage in commercial fishing (other than community fishing) on a boat in an area of Australian jurisdiction unless there is in force in respect of the boat a licence under subsection 19(2) or a Treaty endorsement; or (aa) engage in commercial fishing (other than community fishing) without the use of a boat in an area of Australian jurisdiction unless the person does so under a licence in force under subsection 19(4A); or (b) being a traditional inhabitant, engage in activities by way of community fishing on a boat in an area of Australian jurisdiction, being activities in respect of which there is in force a declaration under subsection 17(1), unless there is in force in respect of the boat a licence under subsection 19(2); or (ba) being a traditional inhabitant, engage in activities by way of community fishing without the use of a boat in an area of Australian jurisdiction, being activities in respect of which there is in force a declaration under subsection 17(1A), unless the person does so under a licence in force under subsection 19(4A); or (c) be in charge of a boat (other than a boat in respect of which a Treaty endorsement is in force) that is being used for commercial fishing (other than community fishing) in an area of Australian jurisdiction unless the person is the holder of a master fisherman's licence that is in force; or	

	<p>(ca) be in charge of a boat (other than a boat in respect of which a Treaty endorsement is in force) that is being used for community fishing:</p> <p>(i) in an area of Australian jurisdiction; and</p> <p>(ii) in respect of which there is in force a declaration under subsection 17(1AA);</p> <p>unless the person is the holder of a master fisherman’s licence that is in force; or</p>	
<p>Part VI. Enforcement Division 3. Forfeiture for offences Subdivision A. Forfeiture by court order Section 52. Forfeiture of things used in certain offences Subsection (2)(b)</p>	<p>(2) Where a court convicts a person of an offence referred to in subsection (1), the court shall not order the forfeiture of:</p> <p>....</p> <p>(b) a boat that was, at the time of the commission of the offence, being used in the course of traditional fishing or community fishing.</p>	2
<p>SCHEDULE 1. Torres Strait Treaty</p>		
<p>Part 1. Definitions Article 1. Definitions Section 1 (k) to (m)</p>	<p>1. In this Treaty:</p> <p>....</p> <p>(k) “traditional activities” means activities performed by the traditional inhabitants in accordance with local tradition, and includes, when so performed—</p> <p>(i) activities on land, including gardening, collection of food and hunting;</p> <p>(ii) activities on water, including traditional fishing;</p> <p>(iii) religious and secular ceremonies or gatherings for social purposes, for example, marriage celebrations and settlement of disputes; and</p> <p>(iv) barter and market trade.</p> <p>In the application of this definition, except in relation to activities of a commercial nature, “traditional” shall be interpreted liberally and in the light of prevailing custom;</p> <p>(l) “traditional fishing” means the taking, by traditional inhabitants for their own or their dependants’ consumption or for use in the course of other traditional activities, of the living natural resources of the sea, seabed, estuaries and coastal tidal areas, including dugong and turtle;</p> <p>(m) “traditional inhabitants” means, in relation to Australia, persons who:</p> <p>(i) are Torres Strait Islanders who live in the Protected Zone or the adjacent coastal area of Australia,</p> <p>(ii) are citizens of Australia, and</p> <p>(iii) maintain traditional customary associations with areas or features in or in the vicinity of the Protected Zone in relation to their subsistence or livelihood or social, cultural or religious activities; and</p>	1, 2, 3
<p>Part 4. The Protected Zone Article 10. Establishment and Purposes of the Protected Zone Section 3.</p>	<p>3. The principal purpose of the Parties in establishing the Protected Zone, and in determining its northern, southern, eastern and western boundaries, is to acknowledge and protect the traditional way of life and livelihood of the traditional inhabitants including their traditional fishing and free movement.</p>	1, 2, 3

<p>Part 4. The Protected Zone Article 11. Free Movement and Traditional Activities Including Traditional Fishing Sections (1) to (3)</p>	<p>1. Subject to the other provisions of this Treaty, each Party shall continue to permit free movement and the performance of lawful traditional activities in and in the vicinity of the Protected Zone by the traditional inhabitants of the other Party.</p> <p>2. Paragraph 1 of this Article shall not be interpreted as sanctioning the expansion of traditional fishing by the traditional inhabitants of one Party into areas outside the Protected Zone under the jurisdiction of the other Party not traditionally fished by them prior to the date of entry into force of this Treaty.</p> <p>3. The provisions of this Article and the other provisions of this Treaty concerning traditional fishing are subject to Article 14 and paragraph 2 of Article 20 of this Treaty.</p>	<p>1, 2, 3</p>
<p>Part 4. The Protected Zone Article 12. Traditional Customary Rights</p>	<p>Where the traditional inhabitants of one Party enjoy traditional customary rights of access to and usage of areas of land, seabed, seas, estuaries and coastal tidal areas that are in or in the vicinity of the Protected Zone and that are under the jurisdiction of the other Party, and those rights are acknowledged by the traditional inhabitants living in or in proximity to those areas to be in accordance with local tradition, the other Party shall permit the continued exercise of those rights on conditions not less favourable than those applying to like rights of its own traditional inhabitants.</p>	<p>1</p>
<p>Part 4. The Protected Zone Article 14. Protection of Flora and Fauna Section (4)</p>	<p>4. In giving effect to the provisions of this Article, each Party shall use its best endeavours to minimise any restrictive effects on the traditional activities of the traditional inhabitants.</p>	<p>1</p>
<p>Part 4. The Protected Zone Article 19. Torres Strait Joint Advisory Council Sections (1), (2), (4) & (6)</p>	<p>1. The Parties shall jointly establish and maintain an advisory and consultative body which shall be known as the Torres Strait Joint Advisory Council (called in this Article “the Advisory Council”).</p> <p>2. The functions of the Advisory Council shall be—</p> <p>(a) to seek solutions to problems arising at the local level and not resolved pursuant to Article 18 of this Treaty;</p> <p>(b) to consider and to make recommendations to the Parties on any developments or proposals which might affect the protection of the traditional way of life and livelihood of the traditional inhabitants, their free movement, performance of traditional activities and exercise of traditional customary rights as provided for in this Treaty; and</p> <p>....</p> <p>4. In the exercise of its functions, the Advisory Council shall ensure that the traditional inhabitants are consulted, that they are given full and timely opportunity to comment on matters of concern to them and that their views are conveyed to the Parties in any reports and recommendations made by the Advisory Council to the Parties.</p> <p>....</p> <p>6. Unless otherwise agreed by the Parties, the Advisory Council shall consist of eighteen members, that is nine members from each Party who shall include—</p> <p>....</p> <p>(c) at least three members representing the traditional inhabitants,</p> <p>with each Party being free to decide from time to time from which of the aforementioned categories any other of its members will be drawn.</p>	<p>7</p>

<p>Part 5. Protected Zone Commercial Fisheries Article 20. Priority of Traditional Fishing and Application of Measures to Traditional Fishing Section (2)</p>	<p>2. A Party may adopt a conservation measure consistent with the provision of this Part which, if necessary for the conservation of a species, may be applied to traditional fishing, provided that that Party shall use its best endeavours to minimise any restrictive effects of that measure on traditional fishing.</p>	<p>1</p>
<p>Part 5. Protected Zone Commercial Fisheries Article 26. Licensing Arrangements Section (3)</p>	<p>3. In issuing licences in accordance with paragraph 1 of this Article, the responsible authorities of both Parties shall have regard to the desirability of promoting economic development in the Torres Strait area and employment opportunities for the traditional inhabitants. 4. The responsible authorities of both parties shall ensure that the traditional inhabitants are consulted from time to time on the licensing arrangements in respect of Protected Zone commercial fisheries.</p>	<p>5, 6, 7</p>
<p><i>Torres Strait Fisheries Regulations 1985</i></p>		
<p>Section</p>	<p>Text</p>	<p>Principles</p>
<p>-</p>	<p>-</p>	<p>-</p>

Table 1.2.2: New South Wales Fisheries Legislation (Fisheries Management Act 1994, Fisheries Management (General) Regulation 2010, Proposed Amendment to FMA 1994).

<i>Fisheries Management Act 1994</i>		
Section	Text	Principles
Part 1. Preliminary Section 3. Objects of Act Subsection (2)(h)	(2) In particular, the objects of this Act include: (h) recognise the spiritual, social and customary significance to Aboriginal persons of fisheries resources and to protect, and promote the continuation of, Aboriginal cultural fishing'	1, 5
Part 1. Preliminary Section 4. Definitions Subsection 1	<i>In this Act:</i> <i>Aboriginal cultural fishing</i> means fishing activities and practices carried out by Aboriginal persons for the purpose of satisfying their personal, domestic or communal needs, or for educational, ceremonial or other traditional purposes, and which do not have a commercial purpose. <i>Aboriginal fishing assistance program</i> —see section 237B. <i>Aboriginal person</i> means a person who: (a) is a member of the Aboriginal race of Australia, and (b) identifies as an Aboriginal person, and (c) is accepted by the Aboriginal community as an Aboriginal person. <i>native title holder</i> has the same meaning as it has in the Native Title Act 1993 of the Commonwealth. <i>registered native title body corporate</i> has the same meaning as it has in the Native Title Act 1993 of the Commonwealth. <i>registered native title claimant</i> has the same meaning as it has in the Native Title Act 1993 of the Commonwealth.	2
Part 2. General Fisheries management Division 4a. Recreational Fishing Fee Section 34C Subsection (2)f	A fisher is exempt from paying a fishing fee: (f) if the fisher is an Aboriginal person,	1,2,5
Part 2. General Fisheries management Division 5 General Section 37. Defence Subsection (1)(d) and (9)	(1) The Minister may approve the taking and possession of fish or marine vegetation of any kind or of a specified kind for any or all of the following purposes: (d) Aboriginal cultural fishing, (9) The Minister is not to grant an approval for Aboriginal cultural fishing if to authorise the fishing activities and practices concerned would be inconsistent with native title rights and interests under an approved determination of native title (within the meaning of the <i>Native Title Act 1993</i> of the Commonwealth) or with the terms of an indigenous land use agreement (within the meaning of that Act).	1, 3, 4, 5
Part 2A. Fishing determinations and quotas	In this Division: <i>non-commercial fishing determination</i> means a fishing determination that relates to:	4, 5

<p>Division 5. Allocation of non-commercial fishing determinations Section 40Y. Definition Subsection (d)</p>	<p>.... (d) the taking of fish for recreational fishing purposes, Aboriginal cultural fishing or any other purpose other than for sale.</p>	
<p>Part 3. Commercial share management fisheries Division 5. Management Plans Section. 58 Public and industry consultation Subsection. (2)</p>	<p>(2) The Minister is to consult on the proposed plan with any advisory councils or advisory groups representing commercial or recreational fishing interests, indigenous interests or conservation interests that the Minister considers to have a sufficient interest in the plan.</p>	<p>5, 7</p>
<p>Part 7A. Threatened Species conservation Division 4. Offences Section 220ZFA . Further defences Subsection (2)(g)</p>	<p>(2) Each of the following is a routine agricultural management activity for the purposes of this section: (g) traditional Aboriginal cultural activities (except commercial activities), ...</p>	<p>1, 2</p>
<p>Part 8. Administration Division 1. The Minister and Secretary Section 222B Fisheries Administration Ministerial Corporation Subsection (1) (e)</p>	<p>(1) There is constituted by this section a corporation with the corporate name of the Fisheries Administration Ministerial Corporation for the purpose of the Minister exercising the functions conferred under the following sections: (e) section 237B (4) (b) and (c) and (9) (power of Minister to acquire and deal with fishing assets, and enter into contracts or other arrangements, in connection with Aboriginal fishing assistance programs).</p>	<p>7</p>
<p>Part 8. Administration Division 1A. Advisory bodies Section 229. Ministerial Advisory Bodies Subsection (1)</p>	<p>(1) The Minister may, subject to and in accordance with the regulations, establish advisory councils, including advisory councils for the commercial, recreational, research, Aboriginal and aquaculture sectors of the fishing industry.</p>	<p>6, 7</p>
<p>Part 8. Administration Division 3. Special fisheries trust funds Section 233. Establishment of trust funds Subsection (1) (d1)</p>	<p>(1) The following accounts are established in the Special Deposits Account: (d1) an Aboriginal Fishing Trust Fund,</p>	<p>6, 7</p>
<p>Part 8. Administration Division 3. Special fisheries trust funds Section 237A. Aboriginal Fishing Trust Fund Subsections (1) to (4)</p>	<p>(1) There is to be paid into the Aboriginal Fishing Trust Fund: (a) such amounts as the Minister determines, with the concurrence of the Treasurer, to be paid into the Fund from the following: (i) fees for services provided by the Department in connection with Aboriginal cultural fishing,</p>	<p>6, 7</p>

	<p>(ii) fees for permits issued under section 37 for Aboriginal cultural fishing,</p> <p>(iii) the proceeds of the sale of tags, or other identification, to be used on fish taken in connection with Aboriginal cultural fishing,</p> <p>(iv) money received by the Department for the purposes of enhancing, maintaining or protecting Aboriginal cultural fishing or for the purpose of providing economic development opportunities for Aboriginal communities in relation to fishing or fishing-related activities, and</p> <p>(a1) any loan repayments, interest or other amounts payable or recovered in respect of loans under an Aboriginal fishing assistance program, and</p> <p>(a2) any repayment of the whole or any part of grants, or other amounts recovered in respect of grants, under an Aboriginal fishing assistance program, and</p> <p>(a3) any fees or other amounts payable or recovered for access to or the use of fishing assets under an Aboriginal fishing assistance program (including any amounts payable under any contract or other agreement for that access or use), and</p> <p>(a4) the proceeds of the sale of any fishing assets acquired under an Aboriginal fishing assistance program (less any reasonable costs incurred in selling the assets), and</p> <p>(a5) any money advanced by the Treasurer for the Fund, and</p> <p>(b) any grant, donation, gift or bequest of money for the purposes of the Fund, and</p> <p>(c) any other money appropriated by Parliament or by the Parliament of the Commonwealth for the purposes of the Fund or required by law to be paid into the Fund.</p> <p>(2) There may be paid out of that Fund the costs of:</p> <p>(a) taking measures to enhance, maintain or protect Aboriginal cultural fishing, and</p> <p>(b) providing economic development opportunities for Aboriginal communities in relation to fishing or fishing-related activities.</p> <p>(2A) Without limiting subsection (2), there may be paid out of that Fund the costs of providing an Aboriginal fishing assistance program.</p> <p>(2B) The costs of providing an Aboriginal fishing assistance program include the following (if applicable):</p> <p>(a) amounts paid by way of grants or loans under the program,</p> <p>(b) the costs incurred in acquiring fishing assets under the program,</p> <p>(c) administrative costs incurred in the operation of the program.</p> <p>(3) The Minister is to consult any relevant advisory council on Aboriginal fishing about policies and priorities for expenditure from that Fund.</p> <p>(4) In this section:</p> <p><i>fishing assets</i> has the meaning given by section 237B.</p>	
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<p>Part 8. Administration Division 3. Special fisheries trust funds Section 237B. Aboriginal fishing assistance programs Subsections (1) to (11)</p>	<p>(1) The Minister may approve one or more programs (an <i>Aboriginal fishing assistance program</i>) for the purpose of providing assistance to Aboriginal communities in relation to either or both of the following:</p> <p>(a) Aboriginal cultural fishing, (b) fishing or fishing-related activities for a commercial purpose (<i>commercial fishing activities</i>).</p> <p>(2) An Aboriginal fishing assistance program may include provision for any or all of the following:</p> <p>(a) the making of grants or loans to Aboriginal persons, Aboriginal entities or persons acting on behalf of Aboriginal entities, for the purpose of Aboriginal cultural fishing or commercial fishing activities, (b) the acquisition of fishing assets by the Minister, for the purpose of benefiting Aboriginal communities, (c) access to, or the use of, those fishing assets by Aboriginal persons or Aboriginal entities.</p> <p>(3) The Minister is to obtain and have regard to the advice or recommendations of any relevant advisory council on Aboriginal fishing before approving an Aboriginal fishing assistance program.</p> <p>(4) The Minister may, for the purpose of giving effect to an Aboriginal fishing assistance program:</p> <p>(a) grant or lend money to an Aboriginal person, Aboriginal entity or person acting on behalf of an Aboriginal entity, or (b) acquire fishing assets, or (c) enter into a contract or other arrangement with an Aboriginal person, Aboriginal entity or person acting on behalf of an Aboriginal entity.</p> <p>(5) Assistance granted under an Aboriginal fishing assistance program may be subject to such terms and conditions as the Minister thinks fit.</p> <p>(6) Loans granted under an Aboriginal fishing assistance program may be subject to interest or interest free and may be secured or unsecured.</p> <p>(7) Fishing assets acquired under an Aboriginal fishing assistance program are to be held by the Fisheries Administration Ministerial Corporation.</p> <p>(8) Access to, or the use of, fishing assets under an Aboriginal fishing assistance program may be subject to the payment of a fee or otherwise.</p> <p>(9) The Minister may sell any fishing asset held by the Fisheries Administration Ministerial Corporation under an Aboriginal fishing assistance program and exercise any other functions of the owner of a fishing asset.</p> <p>(10) The regulations may make further provision for Aboriginal fishing assistance programs, including by providing for application and assessment processes in relation to a program.</p> <p>(11) In this section: <i>Aboriginal entity</i> means any partnership, trust, corporation, joint venture, syndicate or other body (whether or not incorporated) owned, managed or operated by Aboriginal persons. <i>fishing assets</i> means the following:</p> <p>(a) shares in a share management fishery, (b) any operational items or operating equipment necessary to the function of fishing operations (for example, fishing vessels, fishing gear or hatchery infrastructure),</p>	<p>6, 7</p>
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	<p>(c) any other thing prescribed by the regulations as being included in this definition.</p>	
<p>Part 8. Administration Section Division 3. Special fisheries trust funds Section 237C. Rural Assistance Authority may administer Aboriginal fishing assistance program Subsections (1) to (8)</p>	<p>(1) The Minister may authorise the Rural Assistance Authority (the <i>Authority</i>):</p> <p>(a) to enter into a loan or other contract under an Aboriginal fishing assistance program on behalf of the Minister, and</p> <p>(b) to administer any loan or other contract entered into under an Aboriginal fishing assistance program.</p> <p>(2) The Authority is subject to the control and direction of the Minister in the exercise of any functions conferred on it by or under this section.</p> <p>(3) Subject to subsection (2):</p> <p>(a) the Authority may exercise in relation to a loan or other contract entered into under an Aboriginal fishing assistance program any function that the Authority has under section 35 of the <i>Rural Assistance Act 1989</i> in relation to assistance granted by it (as if a loan granted under the Aboriginal fishing assistance program were assistance granted by the Authority under that Act), and</p> <p>(b) section 44 of the <i>Rural Assistance Act 1989</i> applies to assistance granted under an Aboriginal fishing assistance program as if applications for loans under an Aboriginal fishing assistance program were made to the Authority, and</p> <p>(c) section 46 of the <i>Rural Assistance Act 1989</i> applies to loans granted under an Aboriginal fishing assistance program as if they were assistance granted under a program under that Act and as if statements made to the Minister in connection with loans were statements made to the Authority.</p> <p>(4) The regulations may apply, with or without modification, any other provisions of the <i>Rural Assistance Act 1989</i> to or in respect of an Aboriginal fishing assistance program administered wholly or partly by the Authority.</p> <p>(5) All money received or recovered by or on account of the Authority under an Aboriginal fishing assistance program is to be paid into the Aboriginal Fishing Trust Fund, despite Part 5 of the <i>Rural Assistance Act 1989</i>.</p> <p>(6) The Authority may, with the approval of the Minister, deduct from any money received or recovered by the Authority under an Aboriginal fishing assistance program the costs incurred by the Authority in the exercise of its functions under this section (being costs that would otherwise be payable from the Aboriginal Fishing Trust Fund).</p> <p>(7) Money deducted under subsection (6) is to be paid into the Rural Assistance Authority Fund established under the <i>Rural Assistance Act 1989</i>.</p> <p>(8) Despite subsection (5), the Minister may transfer the amount of any loan under an Aboriginal fishing assistance program into the Rural Assistance Authority Fund to facilitate the administration of the loan by the Authority under this section.</p>	<p>6, 7</p>

	The amount so transferred is to be paid out of that Fund only for that purpose.	
Part 8. Administration Division 3. Special fisheries trust funds Section 237D. Special exemptions for Aboriginal fishing assistance programs Subsections (1) to (4)	(1) Section 65 does not apply to the Fisheries Administration Ministerial Corporation as the holder of shares in a share management fishery under an Aboriginal fishing assistance program, in relation to a designated contravention (within the meaning of section 65 (2)) of a management plan by a person nominated by the Corporation to take fish in the fishery. (2) Section 75 does not apply to shares in a share management fishery held by the Fisheries Administration Ministerial Corporation under an Aboriginal fishing assistance program. Accordingly, shares so held cannot be forfeited under that section. (3) The Fisheries Administration Ministerial Corporation is not liable to pay any community contribution or management charge under Division 7 of Part 3 as the holder of shares in a share management fishery under an Aboriginal fishing assistance program. (4) Section 81 (1) does not apply to the Fisheries Administration Ministerial Corporation as the holder of shares in a share management fishery under an Aboriginal fishing assistance program, in relation to the taking of fish by a person nominated by the Corporation to take fish in the fishery.	6
Part 10. Miscellaneous Section 287. Native title rights and interests	This Act does not affect the operation of the Native Title Act 1993 of the Commonwealth or the Native Title (New South Wales) Act 1994 in respect of the recognition of native title rights and interests within the meaning of the Commonwealth Act or in any other respect	1, 2, 3, 4, 5
Part 10. Miscellaneous Section 288A Service of documents on native title holders	(1) If a document is authorised or required by this Act or the regulations to be served on a person who is a native title holder in relation to an area, service of the document is taken to be effected in accordance with section 288 if the document is served on a registered native title body corporate in relation to the area. (2) If no approved determination of native title (within the meaning of the Native Title Act 1993 of the Commonwealth) exists in relation to the area concerned, a document authorised or required by this Act or the regulations to be served on a person who is a native title holder who cannot be identified may be served on any such person by serving it, in a manner authorised by section 288 on: (a) any representative Aboriginal/Torres Strait Islander bodies for an area that includes the area concerned, and (b) any registered native title claimants in relation to the area concerned.	
Fisheries Management (General) Regulation 2010		
Section	Text	Principles
Part 17. Administration Division 2. Establishment, composition and functions of ministerial advisory councils Section 286.	For the purposes of section 229 of the Act, the following advisory councils are to be established: (c) an Aboriginal Fishing Advisory Council,	1, 3, 5, 7

Establishment of advisory councils		
Part 17. Administration Division 2. Establishment, composition and functions of ministerial advisory councils Section 287. Ministerial Fisheries Advisory Council Subsection (1)(d)	(1) The Ministerial Fisheries Advisory Council is to be composed of the following members: (d) one person who the Minister is satisfied has expertise in Aboriginal cultural fishing or will represent Aboriginal cultural fishing interests,	1, 3, 5, 7
Part 17. Administration Division 2. Establishment, composition and functions of ministerial advisory councils Section 289. Aboriginal Fishing Advisory Council Subsections (1) and (2)	(1) The Aboriginal Fishing Advisory Council is to be composed of the following members: (a) Aboriginal persons appointed to represent different regions of the State (not more than 10 persons in total), (b) one other Aboriginal person, (c) one person appointed as a representative of NTSCORP Limited, (d) one person appointed as a representative of the New South Wales Aboriginal Land Council, (e) a senior officer of the Department. (2) The member of the Aboriginal Fishing Advisory Council who is a senior officer of the Department is not entitled to vote at meetings of the Council.	1, 3, 5, 7
Part 17. Administration Division 2. Establishment, composition and functions of ministerial advisory councils Section 290. Commercial Fishing NSW Advisory Council Subsections (1)	(1) The Commercial Fishing NSW Advisory Council is to be composed of the following members: (a) for each restricted fishery, 1 person who: (i) is an employee or office holder of an industry body that represents the fishery, or (ii) is an entitlement holder who, in the opinion of the Minister, has expertise (or has shown leadership) in the fishery or in the commercial sector of the fishing industry generally, (b) for each share management fishery, 1 person who: (i) is an employee or office holder of an industry body that represents the fishery, or (ii) holds shares in the fishery and who, in the opinion of the Minister, has expertise (or has shown leadership) in the fishery or in the commercial sector of the fishing industry generally, (c) the person appointed to the Ministerial Fisheries Advisory Council under clause 287 (1) (a), (d) an Aboriginal person who is a commercial fisher, (e) a nominee of the Secretary.	1, 5, 7
Part 17. Administration Division 2. Establishment, composition and functions of ministerial advisory councils Section 299. Chairperson and deputy chairperson of Aboriginal Fishing Advisory Council Subsections (1) to (2)	(1) The Aboriginal Fishing Advisory Council is to appoint its own chairperson and deputy chairperson from among its members and must advise the Minister of the persons appointed. (2) A meeting of the Aboriginal Fishing Advisory Council is to be chaired: (a) by the chairperson of the Council, or (b) in the absence of the chairperson: (i) by the deputy chairperson of the Council, or (ii) in the absence of the deputy chairperson (or if no deputy chairperson has been appointed)—by the person appointed by the Minister to chair the meeting in such circumstances (who is a member of the Council), or	1, 7

	(iii) in the absence of the person appointed under subparagraph (ii)—by a member of the Council elected by the members present to chair the meeting.	
Part 17. Administration Division 2. Establishment, composition and functions of ministerial advisory councils Section 300. General procedure for calling and holding meetings of advisory councils Subsections (2) and (3)	(2) The procedure for the calling and holding of meetings of the Aboriginal Fishing Advisory Council is to be determined by the chairperson of the Council in consultation with the Minister. (3) During any vacancy in the office of chairperson of the Aboriginal Fishing Advisory Council, the procedure for calling and holding of meetings of the Council is to be determined by the Minister.	1, 7
Proposed Amendment to FMA: Section 21AA. (has yet to come into force as of 28/01/2018)		
Part 2. General fisheries management Division 2 Offences relating to size, quantity and particular species of fish Section 21AA. Special provision for Aboriginal cultural fishing	(1) An Aboriginal person is authorised to take or possess fish, despite section 17 or 18, if the fish are taken or possessed for the purpose of Aboriginal cultural fishing. (2) The authority conferred by this section is subject to any regulations made under this section. (3) The regulations may make provision for the management of Aboriginal cultural fishing as authorised by this section. (4) Without limiting the above, the regulations may: (a) prescribe the circumstances in which the taking or possession of fish by Aboriginal persons for the purpose of Aboriginal cultural fishing is authorised by this section, and (b) specify restrictions as to the quantity of fish of a specified species or of a specified class that may be taken by or be in the possession of Aboriginal persons for the purposes of Aboriginal cultural fishing as authorised by this section. (5) The Minister must not recommend the making of a regulation under this section unless an advisory council for the Aboriginal sector of the fishing industry has been established under section 229 and the Minister certifies that the advisory council has been consulted on the proposed regulation. (6) A person does not commit an offence against section 17 or 18 in respect of the taking or possession of fish if the taking or possession of the fish is authorised under this section. (7) This section does not prevent the issue of a permit under section 37 for Aboriginal cultural fishing purposes. (8) This section does not authorise an Aboriginal person to do anything that is inconsistent with native title rights and interests under an approved determination of native title (within the meaning of the Native Title Act 1993 of the Commonwealth) or with the terms of an indigenous land use agreement (within the meaning of that Act).	

Table 1.2.3: Northern Territory Fisheries Legislation (*Fisheries Act, Fisheries Regulations*).

<i>Fisheries Act</i>		
Section	Text	Principles
Part 1. Preliminary matters Section 2A. Objects	The objects of this Act are: (b) to maintain a stewardship of aquatic resources that promotes fairness, equity and access to aquatic resources by all stakeholder groups, including: (i) indigenous people; and	1, 5
Part 5. Miscellaneous matters Division 2. Other matters Section 53. Aboriginals	(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 limits 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) authorises 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.	1,4
<i>Fisheries Regulations</i>		
Section	Text	Principles
Part 1. Preliminary matters Section 3. Interpretation	(1) In these Regulations: <i>Aboriginal Coastal licence</i> means a licence granted in accordance with Part 11, Division 2. <i>Aboriginal Coastal licensee</i> means the holder of an Aboriginal Coastal licence. <i>traditional fish trap</i> , for an Aboriginal Coastal licensee, means a structure intended to catch fish, that: (a) is of a design traditionally used by members of the community or group mentioned in regulation 183(a) of which the licensee is a member; and (b) has walls leading to the holding area in the trap of not more than 100m in length.	2, 6
Part 3. General Division 1. General matters Section 10B. Fishing in Tiwi Islands restriction zones Subsections (1) to (2)	(1) A person commits an offence if the person: (a) engages in fishing in a Tiwi Islands restriction zone; and (b) does not do so in accordance with the written permission of the Tiwi Land Council. (2) In this regulation: <i>Tiwi Islands restriction zone</i> means: (a) the area described as the Melville Island, Nodlaw Island and Karlake Island Restriction Zone in Schedule 1AC, Part 1; or (b) the area described as the Bathurst Island and Clift Island Restriction Zone in Schedule 1AC, Part 2. <i>Tiwi Land Council</i> means the Tiwi Land Council established under the <i>Aboriginal Land Rights (Northern Territory) Act 1976</i> (Cth).	1, 2, 3
Part 5. Amateur fishing Division 1. Restrictions relating to fishing gear	(2) A person must not engage in amateur fishing on a registered vessel, other than a vessel registered for the purposes of a Fishing Tour Operator licence or an Aboriginal Coastal licence.	6

Section 46. Amateur fishing gear		
Part 6. Licensing generally Division 3. Processing, sale and handling of fish Section 59. No processing for sale etc. without licence	(1) The holder of: or (e) an Aboriginal Coastal licence; may process fish or aquatic life for sale, sell fish or aquatic life so processed and sell fish or aquatic life under and in accordance with the Act and these Regulations.	6, 7
Part 8. Commercial fisheries Division 12. Aquarium Fishing/Display Fishery Section 132. Purchase or sale of fish	(1) An Aquarium Fishing/Display Fishery licensee must not under the licence: (c) buy fish or aquatic life other than from an Aquaculture licensee, Ornamental Aquaculture licensee, Aboriginal Coastal licensee or Aquarium Fishing/Display Fishery licensee; or	6, 7
Part 9. Processing and sale of fish Division 2. Fish Trader/Processor Section 151. Purchase of fish	A Fish Trader/Processor licensee must not purchase fish or aquatic life for processing and resale except: (c) from a Fish Trader/Processor licensee, a Fish Broker licensee, an Aquaculture licensee, an Aboriginal Coastal licensee or a Pearl Oyster Culture Industry licensee; or	6, 7
Part 9. Processing and sale of fish Division 3. Fish Retailer Section 155. Purchase of fish	A Fish Retailer licensee must not purchase fish or aquatic life for resale except: (c) from a Fish Trader/Processor licensee, a Fish Broker licensee, an Aquaculture licensee, an Aboriginal Coastal licensee or a Pearl Oyster Culture Industry licensee; or	6, 7
Part 9. Processing and sale of fish Division 4. Fish Broker Section 158. Purchase of fish	A Fish Broker licensee must not purchase fish or aquatic life for resale except: (c) from a Fish Trader/Processor licensee, a Fish Broker licensee, an Aquaculture licensee, an Aboriginal Coastal licensee or a Pearl Oyster Culture Industry licensee; or	6, 7
Part 10. Aquaculture Division 2. Aquaculture licence Section 173. Possession of brood-stock	An Aquaculture licensee must not possess fish or aquatic life for breeding except those fish or aquatic life: (f) obtained from an Aboriginal Coastal licensee.	6, 7
Part 10. Aquaculture Division 2A. Ornamental Aquaculture licence Section 175D. Possession of brood stock	An Ornamental Aquaculture licensee must not possess fish or aquatic life for breeding except those fish or aquatic life: (g) obtained from an Aboriginal Coastal licensee.	6, 7
Part 11. Special Licences	183 Application for licence	3, 6, 7

<p>Division 2. Aboriginal Coastal licence Sections 183 to 191A</p>	<p>An Aboriginal person may apply to the Director for an Aboriginal Coastal licence if:</p> <ul style="list-style-type: none"> (a) the person is a member of a community or group in respect of which land has been granted to a trust for the benefit of Aboriginals entitled by Aboriginal tradition to the use or occupation of that land under the <i>Aboriginal Land Rights (Northern Territory) Act 1976</i> (Cth); and (b) the person is permanently resident on the land; and (c) persons accepted by the majority of the community or group to be its leaders indicate their support for the application. <p>184 Director may grant licence</p> <p>(1) The Director may, subject to this Division, grant an Aboriginal Coastal licence to an applicant.</p> <p>(2) An Aboriginal Coastal licence must not be granted to a person other than an individual.</p> <p>185 No transfer of licence</p> <p>An Aboriginal Coastal licensee shall not transfer his or her licence.</p> <p>186 Lapse of licence</p> <p>It shall be a condition of each Aboriginal Coastal licence that it lapses where the licensee ceases to be a permanent resident on the land granted for the benefit of the members of the community or group of which he or she is a member as referred to in regulation 183(a).</p> <p>187 Licensee restrictions in relation to commercial fishing</p> <p>An Aboriginal Coastal licensee must not:</p> <ul style="list-style-type: none"> (a) hold a commercial fishing licence; or (b) engage in fishing operations under the Aboriginal Coastal licence while being an assistant of the holder of a commercial fishing licence. <p>188 Area of licence</p> <p>An Aboriginal Coastal licensee shall not take fish or aquatic life for sale under the licence except from within the area specified on the licence as the area in which fish may be taken under the licence.</p> <p>189 Fishing gear</p> <p>An Aboriginal Coastal licensee must not use, under the licence, fishing gear other than the following:</p> <ul style="list-style-type: none"> (a) a vertical line; (b) a net not exceeding 100m in length and with a mesh size not exceeding 65mm; (c) a scoop net; (d) a hand spear; (e) if authorised by the licence, a traditional fish trap. <p>190 Conditions of licence</p> <p>The Director shall, in determining the conditions, if any, to be placed on an Aboriginal Coastal licence, take into consideration suggestions made by members of the community or group of Aboriginals of which the applicant is a member who are resident on the relevant land.</p> <p>191 To whom fish may be sold</p> <p>An Aboriginal Coastal licensee must not sell fish or aquatic life except to:</p> <ul style="list-style-type: none"> (a) an Aquarium Fishing/Display Fishery licensee; or (b) a Fish Trader/Processor licensee; or (c) a Fish Retailer licensee; or 	
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	<p>(d) a Fish Broker licensee; or (e) an Aquaculture licensee; or (f) an Aquarium Trader licensee; or (g) a Public Aquarium licensee; or (h) an Ornamental Aquaculture licensee; or (i) a person not purchasing the fish or aquatic life for resale. 191A Certain fish not to be taken or sold An Aboriginal Coastal licensee must not, under the licence: (a) intentionally take, or attempt to take, barramundi, king threadfin, Spanish mackerel, trepang or mud crab; or (b) sell more than the number or quantity (which may be zero) of fish or aquatic life specified in the licence.</p>	
<p>Part 11. Special Licences Division 4 Aquarium Trader licence Section 199. Sale, purchase and exhibition of live fish and aquatic life</p>	<p>(2) An Aquarium Trader licensee must not purchase fish or aquatic life except: (cb) from an Aboriginal Coastal licensee; or </p>	7
<p>Part 11. Special Licences Division 4A. Public Aquarium licence Section 202. Taking, purchasing and exhibiting live fish and aquatic life</p>	<p>(2) A Public Aquarium licensee must not under the licence: (c) purchase live fish or aquatic life other than from: (v) an Aboriginal Coastal licensee. </p>	7
<p>Part 12. Miscellaneous Section 207. NTSCI levy payable</p>	<p>(2) Sub regulation (1) does not apply to an applicant for an Aquarium Fishing/Display Fishery licence, an Aquarium Trader licence, a Fish Retailer licence, an Aboriginal Coastal licence, a Fish Broker licence, a Fishing Tour Operator licence, Ornamental Aquaculture licence or a Net licence.</p>	7

Table 1.2.4: Queensland Fisheries Legislation (*Fisheries Act 1994, Fisheries Regulation 2008*).

<i>Fisheries Act 1994</i>		
Section	Text	Principles
<p>Part 1. Preliminary</p> <p>Division 2. Objectives</p> <p>Section 3A. How particular purposes are to be primarily achieved</p> <p>Subsection (1)(b)(ii)</p>	<p>(1) The main purpose of this Act is to be primarily achieved by:</p> <p>....</p> <p>(b) providing for the following:</p> <p>....</p> <p>(ii) the management of commercial, recreational and indigenous fishing;</p>	5
<p>Part 1. Preliminary</p> <p>Division 4. Operation of Act</p> <p>Section 11. General application of Act</p> <p>Subsection (2)(b)</p>	<p>(2) However, this Act does not apply to:</p> <p>....</p> <p>(b) the taking of fish, within the meaning of the Torres Strait Fisheries Act 1984 (Cwlth), for the purposes of a Commonwealth law Torres Strait cooperative fishery;</p> <p>....</p>	3
<p>Part 1. Preliminary</p> <p>Division 4. Operation of Act.</p> <p>Section 14. Defence for Aborigines and Torres Strait Islanders for particular offences</p> <p>Subsections (1) to (3)</p>	<p>(1) It is a defence in a proceeding against a person for an offence against this Act relating to the taking, using or keeping of fisheries resources, or the using of fish habitats, for the person to prove—</p> <p>(a) the person is an Aborigine, who at the time of the offence was acting under Aboriginal tradition, or the person is a Torres Strait Islander, who at the time of the offence was acting under Island custom; and ^[1]_[SEP]</p> <p>(b) the taking, using or keeping of the fisheries resources, or the using of the fish habitats, was for the purpose of satisfying a personal, domestic or non-commercial communal need of the Aborigine or Torres Strait Islander; and ^[1]_[SEP]</p> <p>(c) depending on whichever of the following applies:</p> <p>(i) for an offence relating to the taking or using of fisheries resources, or the using of fish habitats—the taking or using of the fisheries resources, or using of the fish habitats, was carried out using prescribed fishing apparatus in waters other than prescribed waters; ^[1]_[SEP]</p> <p>(ii) for an offence relating to the keeping of fisheries resources:</p> <p>(A) the fisheries resources kept were taken using prescribed fishing apparatus in waters other than prescribed waters; and ^[1]_[SEP]</p> <p>(B) at the time of the offence, the fisheries resources were not in prescribed waters. ^[1]_[SEP]</p> <p>(2) However, subsection (1) is subject to a provision of a regulation that expressly applies to acts done under Aboriginal tradition or Island custom.</p> <p>(3) In this section:</p> <p><i>prescribed fishing apparatus</i> means:</p> <p>(a) fishing apparatus that is recreational fishing apparatus under a regulation under this Act; or</p> <p>(b) fishing apparatus that is used under Aboriginal tradition or Island custom and prescribed specifically under a regulation for the purpose of this section.</p> <p><i>prescribed waters</i> means waters:</p> <p>(a) that are regulated waters under a regulation under this Act;</p> <p>and</p>	1, 2

	(b) that are prescribed specifically under a regulation for the purpose of this section; and (c) where the taking of any fish, or the possession of any fish taken, by any person is prohibited.	
Part 3. Chief Executive Section 20. Chief executive's functions Subsection 2(a)	(2) The other functions of the chief executive are: (a) to ensure the fair division of access to fisheries resources for commercial, recreational and indigenous use;	4
Fisheries Regulation 2008		
Section	Text	Principles
Chapter 4. Other fisheries declarations Part 1. Regulated fishing apparatus declarations Division 2. Declarations applying generally Section 178. Regulation of commercial fishing apparatus Subsection (2)	(2) Despite subsection (1), an Aborigine or Torres Strait Islander may possess, but not use, a commercial fishing net without an authority if: (a) the net has a mesh size of at least 50mm but no more than 215mm; and (b) the net is no longer than 80m.	1, 2
Schedule 11. Dictionary Part 1. Extended definitions Section 8. Meaning of recreational fisher and recreational fishing Subsection (2)	(2) A person is carrying out recreational fishing if the person takes or possesses fish, unless: or (ii) in the exercise or enjoyment of native title rights and interests in relation to land or waters under the Native Title Act 1993 (Cwlth); or (b) the person is an Aborigine and takes or possesses the fish under Aboriginal tradition; or (c) the person is a Torres Strait Islander and takes or possesses the fish under Island custom.	1, 2
Chapter 5 Authorities Part 2. General provisions about authorities Division 1. Types of authorities Subdivision 1. Prescribed authorities Section 204. Types of permits	(b) indigenous fishing permits;	6
Chapter 5 Part 4. Permits Division 2 Authorisation under particular permits Section 220.	A person who holds an indigenous fishing permit and anyone else identified in the permit may do any of the following under the permit: (a) assess the commercial viability of a fishing activity proposed to be carried out, or fishing apparatus or a boat proposed to be used, by an indigenous person or a community of indigenous persons in a commercial fishery identified in the permit;	6

Indigenous fishing permit	(b) buy, use or possess fishing apparatus to carry out the assessment; (c) take, possess and process fish taken for carrying out the assessment; (d) sell the fish.	
Part 4. Other fee Application for indigenous fishing permit	Nil fees	6

Table 1.2.5: South Australian Fisheries Legislation (Fisheries Management Act 2007, Fisheries Management (General) Regulations 2017).

<i>Fisheries Management Act 2007</i>		
Section	Text	Principles
Part 1. Preliminary Section 2. Interpretation Subsection (1)	In this Act, unless the contrary intention appears: <i>Aboriginal person</i> means a person of Aboriginal descent who is accepted as a member by a group in the community who claim Aboriginal descent; <i>aboriginal traditional fishing</i> means fishing engaged in by an Aboriginal person for the purposes of satisfying personal, domestic or non-commercial, communal needs, including ceremonial, spiritual and educational needs, and using fish and other natural marine and freshwater products according to relevant aboriginal custom; <i>aboriginal traditional fishing management plan</i> —see section 60; <i>indigenous land use agreement</i> means an indigenous land use agreement registered under Part 2 Division 3 of the <i>Native Title Act 1993</i> of the Commonwealth; <i>native title group</i> means a native title group under section 24CD of the <i>Native Title Act 1993</i> of the Commonwealth; <i>recreational fishing</i> means fishing other than commercial fishing or aboriginal traditional fishing;	1, 2
Part 1. Preliminary Section 5. Application of Act Subsection (3)	(3) Native title and native title rights and interests are not affected by the operation of this Act except to the extent authorised under the <i>Native Title Act 1993</i> of the Commonwealth.	2
Part 5. Management plans for commercial fishing, recreational fishing and aquatic reserves Section 41. Application of Part	This Part does not apply to an aboriginal traditional fishing management plan.	3, 5
Part 5. Management plans for commercial fishing, recreational fishing and aquatic reserves Section 43. General nature and content of management plans	(1) A management plan must: (b) be consistent with any relevant aboriginal traditional fishing management plan; and	2, 4, 5
Part 5. Management plans for commercial fishing, recreational fishing and aquatic reserves Section 44. Procedure for preparing management plans	(1) The Minister must, in relation to a proposal to prepare a management plan: (c) seek the views of a representative of all signatories to any indigenous land use agreement that is in force in relation to any of the area to which the plan relates in relation to the draft.	2, 3, 5

Subsection (1)(c)		
<p>Part 5. Management plans for commercial fishing, recreational fishing and aquatic reserves</p> <p>Section 44. Procedure for preparing management plans</p> <p>Subsection (3)(a)(ii)</p>	<p>(3) The Minister, after preparing the draft management plan and related report—</p> <p>(a) refer the plan and report to:</p> <p>....</p> <p>(ii) the representative of all signatories to any indigenous land use agreement that is in force in relation to any area to which the plan relates;</p> <p>....</p>	5, 7
<p>Part 6. Regulation of fishing and processing</p> <p>Division 2. Aboriginal traditional fishing</p> <p>Section 60. Management of aboriginal traditional fishing</p> <p>Subsections (1)-(3)</p>	<p>(1) The Minister and a native title group that is party to an indigenous land use agreement may make an aboriginal traditional fishing management plan under the agreement for the management of specified aboriginal traditional fishing activities in a specified area of waters.</p> <p>(2) An aboriginal traditional fishing management plan under an indigenous land use agreement must—</p> <p>(a) be consistent with—</p> <p>(i) the agreement; and</p> <p>(ii) the objects of this Act; and</p> <p>(iii) any management plan under Part 5 that relates to the area of waters to which the plan applies; and</p> <p>(b) include the management objectives of the plan; and</p> <p>(c) specify the management tools and other measures to be used to achieve the management objectives; and</p> <p>(d) identify the area of waters to which the plan applies; and</p> <p>(e) identify any fisheries constituted in relation to those waters; and</p> <p>(f) specify the classes of aboriginal traditional fishing activities that are authorised by the plan; and</p> <p>(g) identify, or provide a mechanism for identifying, the classes of persons who are authorised to engage in aboriginal traditional fishing activities under the plan; and</p> <p>(h) provide a method for determining how aboriginal traditional fishing activities may be distinguished from other kinds of fishing activities; and</p> <p>(i) provide for any other matter relating to aboriginal traditional cultural fishing as required by the agreement.</p> <p>(3) The Minister must cause notice of an aboriginal traditional fishing management plan made under an indigenous land use agreement to be published in the Gazette fixing the date on which the plan will take effect.</p>	1, 2, 3, 5, 7
<p>Part 6. Regulation of fishing and processing</p> <p>Division 2. Aboriginal traditional fishing</p> <p>Section 61. Availability and evidence of aboriginal traditional fishing management plans</p> <p>Subsections (1)-(2)</p>	<p>(1) Copies of each aboriginal traditional fishing management plan must be kept available for inspection and purchase by the public during ordinary office hours at a place or places determined by the Minister.</p> <p>(2) In legal proceedings, evidence of the contents of an aboriginal traditional fishing management plan may be given by production of a document certified by the Minister as a true copy of the plan.</p> <p>(3) A genuine document purporting to be a certificate of the Minister will be accepted as such in the absence of proof to the contrary.</p>	3, 5
<p>Part 10. Miscellaneous</p>	<p>(4) The Minister may not exempt a person or class of persons from a provision of a management plan or regulations for a</p>	5

<p>Division 1. General Section 115. Exemptions Subsection (4)</p>	<p>fishery or an aboriginal traditional fishing management plan or regulations relating to aboriginal traditional fishing.</p>	
<p>Part 10. Miscellaneous Division 2. Regulations Section 128. Regulations relating to conservation and management of aquatic resources, management of fisheries and aquatic reserves and regulation of fishing Subsections (2) to (4)</p>	<p>(2) Without limiting the generality of subsection (1), the regulations may: (c) identify zones within an area of waters to which an aboriginal traditional fishing management plan applies— (i) to which entry by persons other than Aboriginal persons is restricted or prohibited; (ii) within which fishing activities other than aboriginal traditional fishing activities are restricted or prohibited; (d) require persons who engage in aboriginal traditional fishing activities, or aboriginal traditional fishing activities of a specified class, to hold a permit issued by the Minister and regulate the granting and renewal of permits, and the imposition of conditions on permits;</p> <p>(3) The Governor may only make regulations relating to aboriginal traditional fishing on the recommendation of the Minister. (4) The Minister may recommend the making of regulations relating to aboriginal traditional fishing if: (a) the Minister is satisfied that the regulations are necessary or desirable for the purpose of giving effect to an aboriginal traditional fishing management plan made with a native title group under Part 6 Division 2; and (b) the regulations are, in the opinion of the Minister, consistent with the plan and the indigenous land use agreement under which the plan was made; and (c) the Minister has consulted the native title group and given due consideration to any comments made by the group in relation to the regulations.</p>	<p>1, 3, 7</p>
<p><i>Fisheries Management (General) Regulations 2017</i></p>		
<p>Section</p>	<p>Text</p>	<p>Principles</p>
<p>-</p>	<p>-</p>	<p>-</p>

Table 1.2.6: Tasmanian Fisheries Legislation (Living Marine Resources Management Act 1995, Inland Fisheries Act 1995, Fisheries (General and Fees) Regulations 2016).

<i>Living Marine Resources Management Act 1995</i>		
Section	Text	Principles
PART 1. Preliminary Division 1. Definitions and applications Section 3. Interpretation	In this Act <i>Aboriginal activity</i> means: (a) the non-commercial use of the sea and its resources by Aborigines; and (b) the taking of prescribed fish by Aborigines for the manufacture, by Aborigines, of artefacts for sale; and (c) manufacturing of the kind referred to in paragraph (b); <i>Aborigine</i> means an Aboriginal person within the meaning of the Aboriginal Lands Act 1995 ;	2
PART 1. Preliminary Division 1. Definitions and applications Section 10. Effect of Act	(1) An authorisation under this Act takes precedence over any other public or private fishing rights. (2) Subsection (1) does not: (a) extinguish or impair any native title rights and interests; or (b) preclude Aborigines from engaging in Aboriginal activities.	2
PART 1. Preliminary Division 2. Permits and exemptions Section 12. Permits Subsection (1) (i)	(1) A person may apply to the Minister for a permit to take any action which otherwise would contravene a provision of this Act for the following purposes: (i) Aboriginal cultural and ceremonial activities;....	2
PART 4. Licences, Quotas and Agreements Division 1. Fishing licences Section 60. Fishing licence	(1) A person without a fishing licence must not in State waters: (a) participate in fishing; or (b) take fish; or (c) use any apparatus for the purpose of fishing; or (d) take any other action which may be taken only by the holder of a fishing licence. (2) This section does not apply to:; or (c) an Aborigine who is engaged in an Aboriginal activity.	2
PART 4. Licences, Quotas and Agreements Division 3. Fish Processing licences Section 67. Fish Processing licence	(2) Subsection (1) does not apply to the processing of fish – (f) by an Aborigine who is engaged in an Aboriginal activity.	2
PART 4. Licences, Quotas and Agreements Division 6. Allocation arrangements Section 96.	A management plan that incorporates a total allowable catch for a species or class of fish may provide for that catch to be allocated among any or any combination of the following: (d) Aborigines engaging in Aboriginal activities.	4, 5

Allocation of total allowable catch		
PART 8. Fisheries Officers Division 5. Miscellaneous powers Section 196. Information requirements Subsection (1)(b)(iv)	(1) A fisheries officer may require – (b) a person engaged in a fishing activity, fish processing activity, fish transportation activity or marine farming activity, or an activity that involves receiving fish, to do one or more of the following: ... (iv) state whether the activity is an Aboriginal activity;	
Part 9. Enforcement Division 3. Evidentiary Provisions Section 215. Proof of certain facts	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;	
<i>Inland Fisheries Act 1995</i>		
Section	Text	Principles
-	-	-
<i>Fisheries (General and Fees) Regulations 2016</i>		
Section	Text	Principles
PART 4. Miscellaneous Section 15. Prohibition on taking certain fish Subsections (1) to (2)	(1) A person must not take or be in possession of a keyhole limpet or limpet of any of the superfamilies Fissurellacea, Patellacea or Siphonariacea. (2) Sub regulation (1) does not apply to an Aborigine who is engaged in an Aboriginal activity.	4
PART 4. Miscellaneous Section 21. Prescribed fish for definition of Aboriginal activity	For the purpose of paragraph (b) of the definition of <i>Aboriginal activity</i> in section 3 of the Act, the fish specified in Schedule 5 are prescribed fish.	4

Table 1.2.7: Victoria Fisheries Legislation (Fisheries Act 1995 as at 30 August 2017, Fisheries Regulations 2009 as at 1 July 2017 and Victorian Fisheries Authority Act 2016).

<i>Fisheries Act 1995</i>		
Section	Text	Principles
Part 1. Preliminary Section 3. Objectives of the Act Subsection (d)	(d) to facilitate access to fisheries resources for commercial, recreational, traditional and non-consumptive uses;	1,5
Part 1. Preliminary Section 3A. Consultation principles Subsection (1)(f)(v)	(1) To the extent that it is practicable, the following consultation principles apply to decisions made by the Minister, Secretary or Victorian Fisheries Authority under this Act, which affect the use and conservation of Victoria's fisheries resources— (f) representative advice in relation to the following persons or groups should be considered during any consultation process— (v) indigenous groups;	1,5, 7
Part 1. Preliminary Section 11AA. Traditional owner agreement for natural resources Subsections (1) to (3)	(1) If a traditional owner group entity has an agreement under Part 6 of the Traditional Owner Settlement Act 2010, any provision of this Act that provides for an offence for carrying out an agreed activity (other than a provision specified in subsection (2)) does not apply to a member of the traditional owner group— (a) who is bound by the agreement; and (b) who is carrying out an agreed activity to which the offence applies in accordance with the agreement and on land to which the agreement applies. (2) For the purpose of subsection (1) the following provisions are specified— (a) section 53; (b) section 68B; (c) section 76; (d) section 84; (e) section 139. (3) For the purposes of this section— (a) a reference in subsection (1) to this Act does not include a reference to the regulations; and (b) to avoid doubt, subsection (1) does not prevent a provision of the regulations from providing for an offence for carrying out an agreed activity.	3
Part 3. Management Plans Section 29. Contents of fishery management plan Subsection (1)	(1) The purpose of a fishery management plan is to specify policies and strategies for the management of the fishery to which the plan applies on an ecologically sustainable basis having regard to relevant commercial, recreational, traditional and non-consumptive uses.	7
Part 4. Regulation of fisheries Division 1. Offences, licences, general permits and authorisations	The Victorian Fisheries Authority may authorise the holder of the permit to do one or more of the following: (h) to take or possess fish (in areas where recreational fishing is authorised under this Act) for a specified indigenous cultural ceremony or event; or....	2, 5

Section 49. General permit Subsection (2) (h)		
Part 6. Fisheries Advisory Councils Section 93. Membership of the councils Subsection (f)	The Council consists of the following 14 members appointed by the Minister— (f) one Aboriginal person who, in the opinion of the Minister, has knowledge and experience of Aboriginal fishing and represents the interests of the Aboriginal community;...	5, 7
Fisheries Regulations 2009		
Section	Text	Principles
Part 1. Preliminary Section 11AA. Application of these Regulations to traditional owners	In accordance with section 11AA of the Act, these Regulations do not apply to a traditional owner group entity within the meaning of the Traditional Owner Settlement Act 2010.	2
Victorian Fisheries Authority Act 2016		
Section	Text	Principles
Part 1. Preliminary Section 3 Definitions	In In this Act – fisheries sectors means all of the following, taken collectively— ... (c) the Aboriginal fishing sector;...	2
Part 2. Victorian Fisheries Authority Division 5 Victorian Fisheries Authority Board Section 22 Appointment of Members of the Board) In appointing a person under section 21, the Minister must, so far as is practicable, ensure that collectively the directors of the Board have skills, knowledge or experience in relation to—; and (f) Aboriginal culture and identity as it relates to fishing and fisheries; and....	
Part 2. Victorian Fisheries Authority Division 5 Victorian Fisheries Authority Board Section 25 Acting appointments	(8) When making an appointment under subsection (5), the Minister must, so far as is practicable, ensure that collectively the directors of the Board have skills, knowledge or experience in relation to—; and (f) Aboriginal culture and identity as it relates to fishing and fisheries; and....	

Table 1.2.8: West Australia Fisheries Legislation (Aquatic Resources Management Act 2016 and Fish Resources Management Regulations 1995).

<i>Aquatic Resources Management Act 2016</i>		
Section	Text	Principles
Part 1. Preliminary Section 3. Terms used Subsection (1).	In this Act, unless the contrary intention appears: Aboriginal body corporate means: (a) a corporation registered under the Corporations (Aboriginal and Torres Strait Islander) Act 2006 (Commonwealth); or (b) an incorporated association under the Associations Incorporation Act 2015 the membership of which is wholly or principally composed of Aboriginal persons; Aboriginal person means a person who is wholly or partly descended from the original inhabitants of Australia; Customary fishing means fishing by an Aboriginal person that: (a) is in accordance with the Aboriginal customary law and tradition of the area being fished; and (b) is for the purpose of satisfying personal, domestic, ceremonial, educational or other non-commercial communal needs; Purchase includes: (a) to take in exchange; and (b) to agree or offer to take in exchange; and (c) to receive, accept or take delivery under an agreement to take in exchange; and (d) to attempt to purchase, but does not include to conduct a transaction of a prescribed type if the transaction is conducted by an Aboriginal person; sell includes each of the following — (a) to auction; (b) to put out to tender; (c) to barter or exchange; (d) to supply for profit; (e) to offer for sale; (f) to receive or possess for sale; (g) to expose for sale; (h) to consign or deliver for sale; (i) to dispose of by way of raffle, lottery or other game of chance, but does not include to conduct a transaction of a prescribed type if the transaction is conducted by an Aboriginal person;	2, 3
Part 1. Preliminary Section 6. Aboriginal persons not required to hold authorisation in certain circumstances	An Aboriginal person is not required to hold an authorisation to take aquatic organisms if the organisms are taken for the purposes of the person or the person's family and not for a commercial purpose.	2
Part 3. Managed aquatic resources	In this Part: recreational fishing does not include customary fishing;	2

Division 1. Preliminary Section 12. Terms used		
Part 3. Managed aquatic resources Division 2. Strategy and planning Subdivision 2. Aquatic resource management strategies Section 16. Content of ARMS	(1) An ARMS for a managed aquatic resource must set out the following things: (f) the quantity of the aquatic resource that is to be available in a fishing period for customary fishing and public benefit uses;....	4
Part 8. Regulation of various activities Division 3. Licensing of activities and equipment Section 131. Regulations about licensing	The regulations may make provision in relation to the licensing of any of the following: (b) Aboriginal bodies corporate undertaking commercial fishing, but a licence granted or renewed under this provision cannot be transferred despite any other provision of this Act;	7
Part 14. Financial provisions Division 3. Accounts Section 232. Aquatic Resources Research and Development Account Subsection 4(c)	The R&D Account may be applied by the Minister for the following purposes: (c) to defray the costs of the administration and management of customary fishing;	2
<i>Fish Resources Management Regulations 1995</i>		
Section	Text	Principles
Part 1. Preliminary Section 3. Terms used Subsection (1)	gear identification number of a person means: (b) where the person is an Aboriginal person who does not hold a recreational fishing licence, the letter "A" followed by the day, month and year of the birth of the person in numbers (i.e. A 29/3/59);	2
Part 11. Authorisations Division 2. Recreational Fishing Subdivision 1. Recreational fishing licence Section 123. Recreational fishing licence, when required	(1) Subject to sub-regulation (2), a person who carries out any activity set out in the Table to regulation 124 must hold a recreational fishing licence specifying that the person may engage in the activity unless: (b) the person is an Aboriginal person not required to hold a recreational fishing licence under section 6 of the Act.	2
Part 11. Authorisations Division 2. Recreational Fishing Subdivision 1. Recreational fishing licence	(2) A person who fishes by use of a boat must hold a recreational (boat) fishing licence unless: (d) the person is an Aboriginal person not required to hold a recreational fishing licence under section 6 of the Act; or....	2

Section 124B. Recreational (boat) fishing licence, when required		
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Appendix 1.3: Sections of Fisheries Policy/Strategy relating to Indigenous fisheries for each jurisdiction in Australia. (Note: Principles=NIFTWG Principles).

Table 1.3.1. Commonwealth fisheries related policy documents.

Document Title	Policy text	Principles
Department of Agriculture and Water Resources (2017) Commonwealth Fisheries Policy Statement	The Policies Principles include among other; Resource sharing —equitable access among professional, recreational and Indigenous fishers to our shared marine resources. The policy framework draws on a number of themes including; Fishing as part of our culture For Aboriginal and Torres Strait Islanders, fish often have a cultural significance. Australian seafood is sustainably managed Our ecosystem-based fisheries management takes account of the cumulative effect of all human users of marine resources, including professional, recreational and Indigenous fishers . Engagement with stakeholders Stakeholders in our Commonwealth fisheries include professional and recreational fishers, aquaculture operators, Indigenous fishers , scientists and retailers (including processors and exporters).	4,7
Department of Agriculture and Water Resources (2017) National Aquaculture Strategy	Under the strategy within the priority actions relating to research and extension it is proposed to; Ensure participation of Aboriginal and Torres Strait Islander peoples in setting research priorities and allocating funding through FRDC and its Indigenous Reference Group to deliver improved economic, environmental and social benefits to Aboriginal and Torres Strait Islander peoples via aquaculture RD&E In relation to community engagement the government commits to; effectively engaging with Aboriginal and Torres Strait Islander peoples on relevant aquaculture issues.	6,7
National Marine Science Committee (2015) National Marine Science Plan 2015-2025: Driving the development of Australia’s blue economy.	The plan acknowledges the long and ongoing attachment that Indigenous people have with their sea country and the importance this plays spiritually and economically. It also recognizes the role that Indigenous knowledge could play in building understanding. In relation to marine resource allocation there is a need for; Improved data collection on Indigenous use and rights. The integration of local Indigenous knowledge in support of the development of baseline data	1,4,7
National Aquaculture Council (2014) National Aquaculture Statement	The statement asserts the governments recognize and acknowledge: that aquaculture can provide significant investment and sustained employment opportunities, particularly for rural and regional economies, including Aboriginal and Torres Strait Islander communities	-
Australian Fisheries Management Authority (2013) National	No reference to Indigenous fisheries	-

Compliance and Enforcement Policy		
Department of Agriculture, Fisheries and Forestry (2007) Commonwealth Fisheries Harvest Strategy: Policy and Guidelines	No reference to Indigenous fisheries	-
Department of the Environment and Water Resources (2007) Guidelines for the ecologically sustainable management of fisheries 2nd edition	<p>Section 3. Guidelines for the Ecologically Sustainable Management of Fisheries</p> <p>Principle 1. A fishery must be conducted in a manner that does not lead to over-fishing, or for those stocks that are over-fished, the fishery must be conducted such that there is a high degree of probability the stock(s) will recover.</p> <p>Objective 1. The fishery shall be conducted at catch levels that maintain ecologically viable stock levels at an agreed point or range, with acceptable levels of probability.</p> <p>....</p> <p>Assessment- <i>There</i> are reliable estimates of all removals, including commercial (landings and discards), recreational and indigenous, from the fished stock. These estimates have been factored into stock assessments and target species catch levels.</p> <p>Principle 2. Fishing operations should be managed to minimise their impact on the structure, productivity, function and biological diversity of the ecosystem.</p> <p><i>No mention of Indigenous fisheries</i></p>	

Table 1.3.2. New South Wales fisheries related policy documents.

Document	Text	Principles
NSW DPI (2017) Fisheries advisory groups: Establishment and governance	No reference to Indigenous fisheries	-
NSW DPI (2015) Fisheries Resource Sharing in NSW.	The policy recognises the strong customary links between Aboriginal people and aquatic environments especially in relation to a reliance on fish for food, culture and possible economic development. It therefore includes as a guiding principle; respect for existing access rights and arrangements meaning that management arrangements must have due regard to Aboriginal cultural fishing rights and existing access rights.	1,2,4,5
NSW DPI (2015) Aboriginal Engagement and Cultural Use of Fisheries Resources in NSW Marine Parks.	The Policy recognises the continuing relationship between Aboriginal people and their sea country and resources including use and management of those resources, this policy therefore aims to: <ul style="list-style-type: none"> • encourage the involvement of Aboriginal people in the planning and management of NSW marine parks • support and provide for the cultural use of fisheries resources in NSW marine parks. 	1,2,4,7
NSW DPI (2015) Artificial reefs and fish attracting devices in NSW Marine Parks	The policy asserts that before any placement of artificial reefs or FADs is made the needs of any potentially impacted Aboriginal communities needs to be addressed.	1,2
NSW DPI (2014-18) Fisheries NSW Strategic Research Plan.	During the life of the research plan the Department intends to include consideration of Indigenous and customary take.	-
NSW DPI (2014) Debt management: Commercial fisheries quota transfer restrictions.	No reference to Indigenous fisheries	-
NSW DPI (2013) Policy and guidelines for fish habitat conservation and management.	No reference to Indigenous fisheries	-
NSW DPI (2012). Policy Developmental Commercial Fisheries.	The policy does exclude the taking of fish for non-commercial purposes including Aboriginal cultural fishing.	-
NSW DPI (2012) Recreational Fishing Fee Agent – Debt Recovery policy.	No reference to Indigenous fisheries	-
NSW DPI (2011) Fisheries Compliance Enforcement Policy and Procedure: Fair, safe, efficient and equitable application of fisheries laws in NSW.	The policy includes recognition of an interim fishing access arrangement for the taking of fish and other activities as permitted Aboriginal cultural fishing when undertaken in line with the complete reading of the arrangement, available on web link: http://www.dpi.nsw.gov.au/__data/assets/pdf_file/0010/532693/legislation-aboriginal-cultural-fishing-interim-access-arrangements.pdf .	1, 2

Table 1.3.3. Northern Territory fisheries related policy documents.

Document	Text	Principles
Department of Primary Industry and Resources (2018) Aquaculture Policy	The policies principles include; the department will recognise the aspirations of indigenous people and will work with them to facilitate participation in aquaculture development.	6,7
Department of Primary Industry and Resources (2016) Northern Territory Fisheries Harvest Strategy Policy	In relation to the roles and responsibilities the strategy states that; commercial, recreational and indigenous fishing sectors, along with other key stakeholder groups, have a key role to play in implementing the policy, through co-management arrangements.	2, 7
Department of Primary Industry and Resources (2016) Guidelines for Implementing the Northern Territory Fisheries Harvest Strategy Policy.	Glossary contains the following definition for Traditional fishing; <ul style="list-style-type: none"> Fishing for the purposes of satisfying personal, domestic or non-commercial communal needs, including ceremonial, spiritual and educational needs and utilising fish and other natural marine and freshwater products according to relevant Aboriginal custom. 	2
Department of Primary Industry and Resources (2015) Northern Territory Fisheries Resource Sharing Framework	Since the High Court Decisions in 2008, which ruled that permission from Traditional Owners was required to access waters overlying Aboriginal land, NT the government will consider resource sharing issues independently of ongoing negotiations with Traditional Owners regarding access to waters overlying Aboriginal land. The framework includes within its' Guiding Principles in relation to customary use that: <ul style="list-style-type: none"> Resource allocations will ensure the right of Aboriginals to use aquatic resources in a traditional manner is maintained. 	1, 2, 4
Department of Primary Industry and Fisheries (2012) Indigenous Fisheries Development Strategy 2012–2014	Through the strategy the Department seeks to; <ul style="list-style-type: none"> support sustainable, culturally appropriate, business and employment opportunities for Aboriginal communities in fisheries management, research, development, training, industry participation and resource protection. The strategy has two priority areas; <p>Economic development</p> <ul style="list-style-type: none"> Partner with Aboriginal communities to deliver economic development. Provide technical advice and assist training and skill development in the seafood industry Support the employment of more Aboriginal people in the seafood industry. <p>Aquatic resource management</p> <ul style="list-style-type: none"> Involve Aboriginal communities in fisheries management. Protect customary fishing rights. Recognise customary management of coastal and marine areas. Support the NT's Indigenous marine rangers. 	1, 2, 3, 5, 6,7

Table 1.3.4. Queensland fisheries related policy documents.

Document	Text	Principles
<p>Queensland Department of Agriculture and Fisheries (2017) Queensland Sustainable Fisheries Strategy 2017-2027.</p>	<p>The strategy recognises that Aboriginal and Torres Strait Islander fisheries have always been important both as a source of sustenance and for spiritual and cultural practices and it proposes that in reforming the current management framework, there will be 'better recognition of the role of traditional fishing.'</p> <p>In relation to Indigenous engagement the strategy proposes;</p> <ul style="list-style-type: none"> • The agency will work with Indigenous groups and communities through various forums to ensure they are engaged in fisheries management processes, such as fishery-specific harvest strategies. • Inclusion of a member with expertise in cultural matters on the Sustainable Fisheries Expert Panel (SFEP) • Establishment of an Indigenous Working Group to provide advice to the SFEP. <p>In relation to catch allocation the strategy proposes;</p> <ul style="list-style-type: none"> • The making of an allocation to Indigenous fishers of a yet to be determined tonnage from each stock managed • In Action 5.1 the development of a resource allocation policy which at a minimum, should include specific consideration of Indigenous sector allocations. <p>In relation to the development of harvest strategies the strategy proposes;</p> <ul style="list-style-type: none"> • a commitment under Action 6.2 to consult with the Indigenous working group. <p>In relation to fishing rules and access the strategy recognises;</p> <ul style="list-style-type: none"> • the need for greater clarity around traditional fishing access rules and • the need for improved options and opportunities for the involvement of Indigenous people in fisheries management, including the commercial sector. <p>The strategy also acknowledges the need for specific indigenous policies in Action 7.6 which states that the agency will;</p> <ul style="list-style-type: none"> • Develop a traditional fishing policy to clarify arrangements and • Develop an Indigenous commercial fishing development policy to support Indigenous economic development in a way that supports sustainable fishing. 	<p>1,2,4,5,7</p>
<p>Department of Agriculture and Fisheries (2017) Queensland Harvest Strategy Policy.</p>	<p>The Policy states that;</p> <ul style="list-style-type: none"> • Harvest strategies will address the fishing activities of all sectors (commercial, recreational and traditional). • Fishing rules will constrain catch to meet fishery-specific targets and cover all sectors, commercial, recreational, traditional. • As a principle, the primary focus of harvest strategies has been on commercial fisheries, but they can also be used to inform and guide the management of recreational and traditional fishing. 	<p>1,2,5</p>
<p>Department of Agriculture and Fisheries, (2017) Queensland</p>	<p>In relation to existing resource allocation arrangements the harvest strategy should;</p> <ul style="list-style-type: none"> • Set out the best available estimate of the current harvest for the sectors accessing the fishery (e.g. commercial, 	<p>5</p>

<p>Harvest Strategy Guidelines.</p>	<p>recreational and traditional fishing sectors), which will be the <i>de facto</i> sectoral allocation.</p> <p>In setting objectives for a harvest strategy, they should aim to among others;</p> <ul style="list-style-type: none"> • Improve profitability of the commercial sector or the value of recreational and traditional fishing <p>In relation to current management measures</p> <ul style="list-style-type: none"> • It is necessary to acknowledge that the management tools or ‘levers’ applicable to each sector may differ, for example, where management action is required to regulate the catch or impact from recreational or traditional fishing the actions outlined in the harvest strategy should identify any necessary changes to existing access controls. • Fisheries Queensland will establish a regular schedule for the introduction of any necessary changes to recreational and traditional fishing rules across all fisheries. • Where urgent management action is required to ensure that the recreational or traditional use of the State’s fisheries remains within sustainable levels, the Government may introduce necessary measures outside of the regular schedule. 	
<p>Department of Agriculture and Fisheries, (2017) Fisheries Queensland Ecological Risk Assessment Guidelines.</p>	<p>No reference to Indigenous fisheries</p>	<p>-</p>
<p>Department of Agriculture and Fisheries, (2017) Fisheries Queensland Monitoring and Research Plan.</p>	<p>In relation to Monitoring and research data the plan acknowledges;</p> <ul style="list-style-type: none"> • that or Traditional fishers: the agency currently has little understanding of how much is taken for traditional purposes, by which communities, and using which methods. 	<p>-</p>

Table 1.3.5. South Australian fisheries related policy documents.

Document	Text	Principles
South Australia Primary Industries and Regions (2015) Cost Recovery Policy	No reference to Indigenous fisheries	
South Australia Primary Industries and Regions (2015) South Australian fisheries harvest strategy policy	<p>PIRSA is the lead government agency responsible for the implementation of this policy.</p> <ul style="list-style-type: none"> • ... and traditional fishing sectors, ..., have a role to play in implementing the policy, through co-management arrangements. <p>For the purposes of the policy Aboriginal traditional fishing is defined as fishing engaged in by an Aboriginal person for the purposes of satisfying personal, domestic or non-commercial, communal needs, including ceremonial, spiritual and educational needs, and using fish and other natural marine and freshwater products according to relevant Aboriginal custom.</p>	1,5,7
South Australia Primary Industries and Regions (2013) Policy for the Co-management of Fisheries in South Australia	<p>This policy is not intended to replace other existing 'community-based fisheries management' activities that are already occurring in South Australia.</p> <ul style="list-style-type: none"> • For example, the processes that are being developed to implement Indigenous Land Use Agreements (ILUAs) to assist community-based fisheries management with Aboriginal communities in South Australia will continue as community-based fisheries management activities. <p>For the purposes of the policy Aboriginal traditional fishing is defined as</p> <ul style="list-style-type: none"> • Fishing engaged in by an Aboriginal person for the purposes of satisfying personal, domestic or non-commercial, communal needs, including ceremonial, spiritual and educational needs, and using fish and other natural marine and freshwater products according to relevant aboriginal custom. 	1,2,3 7
South Australia Primary Industries and Regions (2011) Allocation Policy: Allocation of Access to Fisheries Resources Between Fishing Sectors	<p>In relation to Aboriginal traditional fishing the policy states that;</p> <ul style="list-style-type: none"> • Access to SA fisheries by Aboriginal communities under the <i>FMA 2007</i> will be through Aboriginal traditional fishing management plans to be developed when an Indigenous Land Use Agreement (ILUA), is in place for a native title claim area. • Agreements from ILUA negotiations will inform the way that access to fisheries resources by Aboriginal communities is defined and implemented. • Aboriginal traditional fishing under the Act only relates to fishing agreed through the ILUA process. Aboriginal people are also recreational fishers outside of these arrangements. • It is proposed that, in the first management plans for each fishery, a share of access be allocated and set aside for the purpose of resolving native title claims. • The small number of claims with fishery-related interests and negotiations to date can inform the share that should be put aside for this purpose. • The share will be nominal, depending on the species (e.g. 1%) and will be deducted from the recreational 	1,2, 3, 4, 5,

	<p>share, because Aboriginal traditional fishing is non-commercial fishing.</p> <ul style="list-style-type: none"> • fishery-related ILUAs will be reviewed every five years and any difference between the original nominal share and the actual share agreed through the ILUA can be calculated. Any difference will then be re-allocated to the recreational sector. <p>For the purposes of this policy traditional fishing is defined as;</p> <ul style="list-style-type: none"> • fishing to satisfy personal, domestic or non-commercial communal needs, including ceremonial, spiritual and educational needs and utilising fish and other natural marine and freshwater products according to relevant indigenous custom. 	
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Table 1.3.6. Tasmanian fisheries related policy documents.

Document	Text	Principles
Department of Primary Industries, Parks, Water and Environment (2017) Update of Policy Document for the Tasmanian Minor Shellfish Fishery	No reference to Indigenous fisheries	
Department of Primary Industries, Parks, Water and Environment (2017) Recognition of Aboriginal Fishing Activities and Allotting Unique Identifying Codes (UIC) under the Living Marine Resources Management Act 1995	<p>This policy paper outlines how DPIPWE administers Aboriginal fishing activity under the provisions of the LMRM Act 1995 and subordinate legislation</p> <p>The policy refers to the processes for recognising an Aboriginal person for the purposes of issuing a UIC are underpinned by the provisions of the Aboriginal Lands Act. DPIPWE establishes eligibility by using the Tasmanian Government’s process for determining access to Tasmanian Government Aboriginal and Torres Strait Islander programs and services,</p> <p>An Aboriginal person must apply for a UIC</p> <p>A UIC is allotted to a person for life and does not need to be renewed. It cannot be transferred and is not a tradeable commodity.</p>	2
Department of Primary Industries, Parks, Water and Environment (2007) Shellfish Fishery Policy Document	<p>The policy;</p> <ul style="list-style-type: none"> • introduce formal management arrangements for the shellfish fishery, (clams, cockles, mussels and oysters). • recognizes the historical catch of shellfish by aboriginal fishers • indicates that the traditional aboriginal take of shellfish has bag limits set in the Fisheries Rules for the fishery. • Notes that Aboriginal fishing activities are provided for under the Act, but the development of policy relating to harvesting shellfish by Aboriginals is outside the scope of this plan. • Seeks to continue to allow Aborigines access to shellfish such as clams, cockles, pipis and mussels traditionally taken for noncommercial purposes. • Notes that because Aborigines have collected wedge shells for aboriginal fishing activities, no bag limit will be imposed. <p>Indicates that the development plans of management for the fishery have to be sent to Aboriginal groups for comment.</p>	1, 2, 7
Department of Primary Industries, Parks, Water and Environment (2005) Policy Document for the Commercial Dive Fishery.	No reference to Indigenous fisheries	
Department of Primary Industries, Parks, Water and Environment (?) Developmental Fisheries Management Policy Document	No reference to Indigenous fisheries	

Table 1.3.7. Victorian fisheries related policy documents.

Document	Text	Principles
Victorian Fisheries Authority (2017) Response to Ministerial Statement of Expectations for the Victorian Fisheries Authority 2018-2020	In relation to Stakeholder consultation and engagement the VFA will; <ul style="list-style-type: none"> continue to actively engage and work with commercial and recreational fishers, aquaculture licence holders and TOGs who have a direct interest in decisions that affect their fishing entitlements. will pursue genuine engagement, partnership and participation with TOGs, in accordance with the DEDJTR Aboriginal Inclusion Action Plan 2016-18. commit to working with the Aboriginal community and fishing stakeholders to pursue the outcomes of the Victorian Aboriginal Fishing Strategy. 	1,2,3,4,5,6,7
Ministerial Statement of Expectations for the Victorian Fisheries Authority 2018-2020	The Minister expects the; <ul style="list-style-type: none"> VFA to pursue genuine engagement, partnership and participation with Indigenous Victorians, in accordance with the DEDJTR Aboriginal Inclusion Action Plan 2016-18. the VFA to participate in Native Title Settlement discussions across Government and with TOGs in relation to operational fishery management issues. VFA will continue to work with the Aboriginal community and fishing stakeholders to pursue the outcomes of the Victorian Aboriginal Fishing Strategy. 	1,2,3,4,5,6,7
Department of Economic Development, Jobs, Transport and Resources (2017) Victorian Aquaculture Strategy 2017-2022	The strategy recognises that the development of Aboriginal interests and opportunities is an element throughout the vision, outcomes, outputs and inputs. Aquaculture Development Initiatives <ul style="list-style-type: none"> Engage with Victorian aboriginal groups to identify aquaculture development opportunities and support initiatives in this area (on-going) <p>Actions will be implemented over the next five years to achieve the vision and outcomes</p> <ul style="list-style-type: none"> through collaboration between the Aquaculture Industry, Victorian government agencies, Aboriginal groups and Commonwealth agencies where relevant. 	6,7
Victorian Fisheries Authority (2017) Victorian Inland Commercial Fishing Policy	Accessing Native Fish from inland waters Victorians will still be able to access our native fish from inland waters for <ul style="list-style-type: none"> Aboriginal groups may take certain native fish for cultural or ceremonial purposes in accordance with recreational fishing laws and bag limits or complying with permits as issued on a case by case basis. 	1, 2
Victorian Fisheries Authority (2017) Policy Fish Stocking for Recreational Purposes	No reference to Indigenous fisheries	
Victorian Fisheries Authority (2012) Victorian Aboriginal Fishing Strategy	The Strategy seeks to achieve: <ul style="list-style-type: none"> Recognition of Aboriginal customary fishing rights for recognised Traditional Owner Groups (TOGs), Better economic opportunities for all Aboriginal people in fishing and related industries, and 	1,2,3,4,5,6,7

	<ul style="list-style-type: none"> • Sustainable fisheries management in collaboration with TOGs. <p>To achieve these goals, the VFA will:</p> <ul style="list-style-type: none"> • Recognise customary fishing as a unique and specific fishing sector by: <ul style="list-style-type: none"> (a) Working with recognised TOGs to develop an interpretation of customary fishing; and (b) Advising the Victorian Government on the development of legislative amendments to define Aboriginal customary fishing. • Develop amendments to fisheries legislation and regulations to remove inconsistency with the Native Title Act 1993 (Vic), • Amend the Fisheries Regulations to create a Traditional Owner Recognition Permit to facilitate implementation of the Victorian Traditional Owner Settlement Act 2010 (Vic). • Actively encourage applications seeking grants to implement projects that improve opportunities for Aboriginal people in recreational fishing. • Implement a state-wide Aboriginal cultural awareness training program for VFA staff. • Develop and implement guidelines for The Victorian Fisheries Authority staff for their engagement with Aboriginal people. • Work with TOGs to integrate Aboriginal culture and ecological knowledge into VFA education programs. • Work with TOGs to identify fish species of special significance to Aboriginal people, including their traditional names and stories, to be used by VFA in communication and education material. • Include a section in the Recreational Fishing Guide that explains the importance of fisheries to Aboriginal people. • Traditional Owner and Aboriginal community groups across Victoria have identified the need for sustainable economic development as a key strategy for achieving greater self-determination and better social outcomes, particularly via increasing employment opportunities. • Set an aspirational target of increasing Aboriginal employment in The Victorian Fisheries Authority to 5 per cent. • Develop and implement an Aboriginal work skills employment program to provide fixed term placements where skills and training are provided to prepare individuals for further employment opportunities. • Utilise the services of Aboriginal businesses to implement actions in the Aboriginal Fishing Strategy, subject to public sector procurement guidelines. • Facilitate linkages between Aboriginal community groups and State and Commonwealth funding sources for commercial fishing and aquaculture projects. • Work with the commercial and recreational fishing sectors to identify opportunities for Aboriginal 	
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	<p>employment or economic development prospects within existing fisheries.</p> <ul style="list-style-type: none"> • Facilitate the establishment of partnerships with education institutions to provide training opportunities in developing seafood industry skills. • Provide advice and training assistance to support Aboriginal initiatives in the seafood and aquaculture industries. • Explicitly consider recognised TOGs' interests when allocating entitlements for new fisheries, particularly with respect to fishing activities aligned with recognised TOGs' interests on country. • Encourage the development of national initiatives relevant to Aboriginal communities through the department's linkages with fisheries agencies in other States and FRDC. • Develop engagement practices with recognised TOGs that draw on existing structures of Aboriginal community representation to improve meaningful participation in fisheries management and consultative processes. • Involve TOGs in research and monitoring of fisheries resources. • Promote awareness about Aboriginal customary fishing among commercial and recreational fishers. • Ensure TOs' cultural and customary fishing aspirations are represented in the development of future policy and management plans. • Incorporate TO customary fishing knowledge into organised community fishing events. • Develop a link on the public website that provides a central, public information point regarding the implementation of the Aboriginal Fishing Strategy. • Develop Natural Resource Agreements and ILUAs with TOGs throughout the State to provide recognition and collaborative management of fisheries resources on traditional country. • Offer support to train and facilitate TOs to enable implementation of Natural Resource Agreements and ILUAs. 	
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Table 1.3.8. Western Australia fisheries related policy documents.

Document	Text	Principles
Western Australia Department of Fisheries (2016) Policy on the Application of Fish Size Limits in Western Australia	No reference to Indigenous fisheries	
Western Australia Department of Fisheries (2015) Harvest Strategy Policy and Operational Guidelines for the Aquatic Resources of Western Australia.	In relation to cross sectoral issues; For resources that are harvested by a number of separate fisheries (commercial, recreational, indigenous) the assessment of the effectiveness of the harvest control rules may need to occur at a number of levels	3
Western Australia Department of Fisheries (2015) Aquaculture Development Zones in Western Australia: Policy principles relating to considerations for aquaculture licences and leases	No reference to Indigenous fisheries	
Western Australia Department of Fisheries (2015) Kimberley Aquaculture Development Zone Management Policy	The policy indicates that periodic inspections of aquaculture licensed sites are undertaken by Fisheries Officers to ensure adherence to licence and lease conditions for example with respect to interactions with commercial, recreational and customary fishers	
Western Australia Department of Fisheries (2013) Abalone Aquaculture in Western Australia Policy	No reference to Indigenous fisheries	
Western Australia Department of Fisheries (2013) Policy on Restocking and Stock Enhancement in Western Australia	No reference to Indigenous fisheries	
Western Australia Department of Fisheries (2012) Western Australian Government Fisheries Policy Statement	The policy recognizes that: <ul style="list-style-type: none"> • The State’s fish and aquatic resources are important to Aboriginal people and • Aboriginal customary fishing is managed within a culturally sensitive and sustainable framework. • The Aboriginal customary fishing sector is seeking to identify and secure its rights to fish stocks and aquatic resources. • That Aboriginal groups are also seeking greater input into marine management through joint management arrangements over marine parks and conservation estates. In relation to resource management: <ul style="list-style-type: none"> • The WA Government will ensure that Aboriginal customary fishing is managed within a sustainable fisheries management framework in accordance with its Aboriginal Customary Fishing Policy 	1, 2
Western Australia Department of Fisheries	No reference to Indigenous fisheries	

(2012) Policy on Habitat Enhancement Structures in Western Australia		
Western Australia Department of Fisheries (2009) Customary Fishing Policy	<p>In this policy customary fishing:</p> <ul style="list-style-type: none"> • Applies, within a sustainable fisheries management framework to persons of Aboriginal descent, fishing in accordance with the traditional law and custom of the area being fished and fishing for the purpose of satisfying personal, domestic, ceremonial, educational or non-commercial communal needs. • Includes elements of barter or exchange of fish within or between Aboriginal communities for other food or for non-edible items other than money if the exchange is of a limited and non-commercial nature and consistent with the traditional practice of those communities. • Is not limited to “traditional” fishing gear, species or methods, but any fishing gear or methods that are destructive or threaten sustainability and the take of threatened species must be accountable within a sustainable fisheries management framework. • Is to be articulated and clearly separated from other forms of fishing in fisheries legislation and policy to allow for the development of appropriate management arrangements that reflect customary fishing access rights, practices and sustainability requirements. <p>Educational information promoting and raising awareness in the broader community about customary fishing access rights, responsibilities, rules and practices must accompany changes to the management of customary fishing.</p> <p>Pearling legislation pertaining to <i>Pinctada maxima</i> to include capacity for the Minister for Fisheries to allow for the use of that pearl oyster species for customary fishing purposes.</p>	1,2,3
Western Australia Department of Fisheries (2009) Integrated Fisheries Management Policy	<p>The guiding principles for management include in particular:</p> <p>A harvest level, that as far as possible includes the total mortality consequent upon the fishing activity of each sector, should be set for each fishery and the allocation designated for use by the commercial sector, the recreational sector, the customary sector, and the aquaculture sector, should be made explicit.</p>	4, 5
Western Australia Department of Fisheries (2009) Aquaculture of Coral, Live Rocks and Associated Products Aquaculture Policy	No reference to Indigenous fisheries	
Western Australia Department of Fisheries (2002) Policy for the Implementation of Ecologically Sustainable Development for Fisheries	<p>Policy includes Indigenous well-being as one of the eight major components of ESD relevant to fisheries, which includes;</p> <ul style="list-style-type: none"> • To satisfy traditional (customary) fishing needs, cultural/economic development and sustainability of indigenous communities. 	1,7

<p>and Aquaculture within Western Australia.</p>	<p>In relation to consultation the policy states that;</p> <ul style="list-style-type: none"> the WA ESD Fisheries Reference Group will include the indigenous community (through the Department of Indigenous Affairs). <p>The policy includes a schematic (component tree) showing the elements of Indigenous Well-being.</p>	
<p>Western Australia Department of Fisheries (20??) Policy for Managing Translocations of Live Fish into and within Western Australia</p>	<p>No reference to Indigenous fisheries</p>	
<p>Western Australia Department of Fisheries (2000) Assessment of Applications for the Granting, Renewal or Transfer of Fishing Tour Operators Licences And Aquatic Eco-tourism Operator Licences: Ministerial Policy Guidelines</p>	<p>No reference to Indigenous fisheries</p>	
<p>Western Australia Department of Fisheries (20??) Policy for Managing Translocations of Live Fish into and within Western Australia</p>	<p>No reference to Indigenous fisheries</p>	

Appendix 1.4: Fisheries Agency ESD Submissions for each jurisdiction, and each assessment, by year. Yellow=Indigenous fishery mentioned in assessment, grey=not mentioned, clear=no submission.

AGENCY ESD SUBMISSION ON EACH FISHERY		ASSESSMENT NUMBER						
		1	2	3	4	5	6	
COMMONWEALTH	New & Exploratory Fisheries in the CCAMLR	2005	2008	2012				
	Australia's High Seas Permits	2004	2007	2010	2013	2018		
	Bass Strait Scallop Central Zone Fishery	2002	2009	2011				
	Coral Sea Fishery	2004	2007	2010	2013	2016		
	Eastern Tuna & Billfish Fishery	2003	2008	2010	2013			
	Heard Island & McDonald Islands Fishery	2002	2007	2012				
	Informally Managed Fishing Permits	2005						
	Macquarie Island Toothfish Fishery	2005	2010					
	New & Exploratory Fisheries in the CCAMLR Region	2005	2008	2012				
	Northern Prawn Fishery	2004	2008	2013				
	Ross Sea Exploratory Toothfish Fishery in the CCAMLR	2014						
	Skipjack Tuna Fishery	2005	2008	2011				
	Small Pelagic Fishery	2003	2007	2009	2012	2014		
	Southern & Eastern Scale-fish & Shark Fishery	2002	2006	2009	2011	2015		
	Southern Bluefin Tuna Fishery	2004	2007	2010	2013	2016		
	Southern Squid Jig Fishery	2004	2009					
	Torres Strait Beche-de-mer Fishery	2004	2008	2011	2014	2017		
	Torres Strait Crab Fishery	2005						
	Torres Strait Finfish Fishery	2004	2008	2012	2017			
	Torres Strait Pearl Shell Fishery							
	Torres Strait Prawn Fishery	2004	2007	2011	2017			
	Torres Strait Trochus Fishery	2005	2008	2011	2017			
	Torres Strait Tropical Rock Lobster Fishery	2003	2007	2010	2014	2016	2017	
	Torres Strait Turtle & Dugong Fishery							
	Western Trawl Fisheries	2003	2007	2012				
	Western Tuna & Billfish Fishery	2003	2009	2014				
	NEW SOUTH WALES	Abalone Fishery	2005	2008	2011	2017		
		Estuary General Fishery	2003	2008	2013			
Estuary Prawn Trawl		2004	2008	2011				
Inland Restricted Fishery		2006						
Lobster Fishery		2005	2012	2017				
Ocean Hauling Fishery		2003	2008	2013	2017			
Ocean Trap & Line Fishery		2005	2009	2013				
Ocean Trawl Fishery		2004	2008	2011				
Sea Urchin & Turban Shell Restricted Fishery		2015						
NORTHERN TERRITORY	Aquarium Fishery	2005	2008	2011	2012	2014	2016	
	Arafura Aquatic Fish Pty Ltd	2013						
	Coastal Line Fishery	2018						
	Demersal Fishery	2003	2009	2016				
	Finfish Trawl Fishery	2003	2009					
	Giant Clam Aquaculture Trial	2010						
	Mud Crab Fishery	2002	2007	2012	2016			
	Offshore Net & Line Fishery	2004	2007	2010	2016			
	Spanish Mackerel Fishery	2004	2007	2012	2016			
	Timor Reef Fishery	2003	2008	2013				
Trepang Fishery	2004	2007	2011	2014	2016			

	AGENCY ESD SUBMISSION ON EACH FISHERY	ASSESSMENT NUMBER					
		1	2	3	4	5	6
QUEENSLAND	Blue Swimmer Crab Fishery	2004	2007	2010	2015		
	Commercial Crayfish & Rock Lobster Fishery	2004	2007	2010	2015		
	Coral Fishery	2006	2009	2012	2015		
	Coral Reef Fin Fish Fishery	2005	2008	2011	2016		
	Deep Water Fin Fish Fishery	2004	2007	2011			
	Developmental Jellyfish Fishery	2008					
	Developmental Slipper Lobster Fishery	2008					
	East Coast Inshore Fin Fish Fishery	2005	2008	2011	2014		
	East Coast Otter Trawl Fishery	2004	2007	2010	2013		
	East Coast Pearl	2004	2009	2015			
	East Coast Spanish Mackerel Fishery	2004	2007	2010			
	East Coast Trochus Fishery	2004	2010	2015			
	Eel Fishery	2004	2009	2014	2015		
	Fin Fish (Stout Whiting) Trawl Fishery	2003	2007	2011	2015		
	Gulf of Carpentaria Developmental Fin Fish Trawl Fishery	2004	2007	2010	2016		
	Gulf of Carpentaria Inshore Fin Fish Fishery	2004	2007	2010	2017		
	Gulf of Carpentaria Line Fishery	2004	2007	2010	2013	2016	
	Marine Aquarium Fish Fishery	2005	2008	2011	2014	2017	
	Marine Specimen Shell Fishery	2004					
	Moreton Bay Beche-de-mer Fishery	2004	2007				
	Mud Crab Fishery	2003	2007	2012			
	River & Inshore Beam Trawl Fishery	2004	2008	2011	2015		
	Rocky Reef Fin Fish Fishery	2004	2008	2010			
	Sea Cucumber Fishery (East Coast)	2004	2007	2011	2014	2017	
	Queensland Schulz Fisheries Pty Ltd	2015					
	Spanner Crab Fishery	2001	2007	2011	2015		
SOUTH AUSTRALIA	Abalone Fishery	2004	2009	2013	2015		
	Beach-cast Marine Algae Fishery	2004	2014	2018			
	Blue Crab Fishery	2004	2010	2015			
	Giant Crab Fishery	2003	2007	2009	2015		
	Lakes & Coorong Fishery	2005	2008	2011	2016		
	Marine Scale-fish Fishery	2005	2008	2011	2016		
	Sardine Fishery (formerly Pilchard Fishery)	2004	2009	2014			
	Prawn Trawl Fisheries	2004	2009	2015			
	Rock Lobster Fishery	2003	2008	2013	2015		
	Scallop & Turbo Fishery	2007	2010	2018			
	Seahorse Marine Services	2004	2009				
	Sea Urchin Fishery	2005	2008	2011	2018		
	Specimen Shell Fishery	2004	2010				

	AGENCY ESD SUBMISSION ON EACH FISHERY	ASSESSMENT NUMBER					
		1	2	3	4	5	6
TASMANIA	Abalone Fishery	2002	2006	2011	2016		
	Aqua Marine Tasmania	2013					
	Commercial Dive Fishery	2005	2011	2016			
	Freshwater Eel Fishery	2003	2009	2014	2016		
	Giant Crab Fishery	2003	2006	2009	2014		
	Gould's Squid Fishery	2014	2016				
	Marine Aquarium Fish Fishery	2005					
	Marine Plants Fishery	2004	2007	2011			
	Native Oyster Fishery	2003	2007	2012	2016		
	Octopus Fishery	2016					
	Richey Fishing Company - Australian Salmon	2015					
	Rock Lobster Fishery	2001	2007	2011	2016		
	Scalaris Abalone Fishery	2004					
	Scallop Fishery	2005	2011	2016			
VICTORIA	Abalone Fishery	2003	2009	2011	2016		
	Corner Inlet Fishery	2016					
	Eel Fishery	2004	2009	2014			
	Giant Crab Fishery	2003	2007	2009	2016		
	Jellyfish Fishery	2003	2006				
	Ocean-reef Aquaculture	2015					
	PQ Aquatics	2003	2009	2012	2015		
	Rock Lobster Fishery	2004	2009	2014	2016		
	Scallop Dive (Port Phillip Bay) Fishery	2015					
	Scallop (Ocean) Fishery	2005	2008	2011	2015		
Sea Urchin Fishery	2005	2008	2011	2016			

	AGENCY ESD SUBMISSION ON EACH FISHERY	ASSESSMENT NUMBER					
		1	2	3	4	5	6
WESTERN AUSTRALIA	Abalone Fishery	2002	2009	2014	2015		
	Abrolhos Coral & Live Rock	2017					
	Abrolhos Island & Mid-West Trawl Managed Fishery	2005	2008	2012	2015		
	Broome Prawn Managed Fishery	2004	2009	2010	2015		
	Cocos (Keeling) Islands Marine Aquarium Fish Fishery	2005	2010	2015			
	Exmouth Gulf Prawn Fishery	2002	2007	2012	2015		
	Gascoyne Demersal Scalefish (Shark Bay Snapper) Fishery	2002	2009	2015			
	Kimberley Prawn Managed Fishery	2004	2009	2010	2015		
	Mackerel Fishery	2004	2009	2015			
	Marine Aquarium Fish Fishery	2005	2008	2011	2013	2016	
	Northern Demersal Scalefish Managed Fishery	2004	2009	2015			
	Northern Developmental Blue Swimmer Crab Fishery	2005	2009				
	Octopus Fisheries	2010					
	Onslow & Nickol Bay Prawn Managed Fisheries	2003	2009	2015			
	Pearl Oyster Fishery	2002	2008	2013	2015		
	Pilbara Trap Fishery	2004	2007				
	Pilbara Trawl Fishery	2004	2007	2010	2013	2018	
	Salmon Managed Fisheries	2004	2009	2014			
	Sea Cucumber Fishery	2004	2007	2011	2014		
	Shark Bay Crab Interim Managed Fishery	2004	2007	2011	2015		
	Shark Bay Prawn Fishery	2002	2007	2012	2015		
	Shark Bay Scallop Fishery	2002	2007	2012	2015		
	South Coast Crustacean Fishery	2004	2007	2011			
	South Coast Trawl Fishery	2005	2008	2013			
	Specimen Shell Managed Fishery	2005	2010	2015			
	Temperate Shark	2007	2008	2012	2015		
	Tropical Shark	2006					
	Trochus Fishery	2008	2012	2015			
	Tyrcraft Pty Ltd Giant Clams	2010	2011	2013	2015		
	West Coast Rock Lobster Managed Fishery	2001	2007	2012	2015		
West Coast & South Coast Purse Seine Managed Fisheries	2005	2008					
West Coast Deep Sea Crustacean Managed Fishery	2003	2007	2009	2013	2015		

Section 2: Indigenous Fisheries Risk Assessment

Introduction – Section 2

In the early 2000's a 'how to guide' for a national reporting framework was developed to ensure wild capture fisheries in Australia would be managed according to ESD principles (Fletcher et al., 2002, Fletcher et al 2005 Fletcher 2015). The framework considered ESD in terms of the three broad categories, ecological wellbeing, human wellbeing and ability to contribute (Fletcher et al 2005). These categories were further subdivided into eight major ESD components (Figure 2.1)

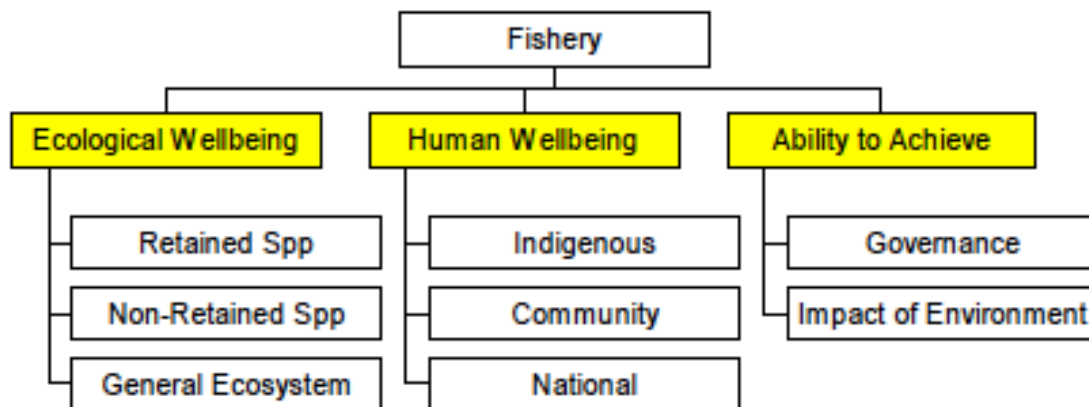


Figure 2.1: The eight major components for ESD reporting on a fishery (adapted from Fletcher et al 2002).

Fletcher et al identified Indigenous Community Wellbeing (ICW) as one of eight major components of ESD and through a series of case studies, developed a generic component tree to help identify what aspects of ICW might be impacted by a fishery (Figure 2.2).



Figure 2.2: The generic component tree for Indigenous wellbeing developed by the National Workshop (Fletcher et al 2002).

In developing the ICW component tree (ICWT) Fletcher's team felt that their understanding of it was 'less well developed than that which deals with the environmental component trees' (Fletcher et al 2002). This they believed was 'a function partly of the type of case studies that were completed' as only a small number had significant indigenous issues' and 'the techniques used to generate the case study component trees (i.e. small workshops of interest group representatives)'. They felt was not the best way to gather the information effectively. Getting genuine and effective indigenous input to this first stage of the ESD reporting process they believed would be better served by 'talking to individuals and groups on their 'home ground' and using a different, more conversational approach.'

Since the production of the 'how to guide' there has been little work completed around the methodology for identifying the components of ICWT in the context of fisheries ESD risk assessment hence the need for a project such as the one covered by Phase 2 of FRDC project 2014/233.

The aim of Phase 2 of FRDC project 2014/233 was to run a series of case study workshops to further explore the adequacy of using of ICWT in ESD fisheries risk assessment and at the same time to build capacity of Indigenous peoples and communities around the risk assessment process.

Methodology – Section 2

The approach adopted was to conduct four case study workshops, one national and three regional ones. The workshop approach employed a two-way exchange of knowledge whereby the researchers both collected data relating to the risk assessment management, whilst at the same time provided information on risk assessment methodology and other fisheries management issues to each community involved. This approach provided an opportunity for the research process to benefit both the researchers (data gathered) and the participating community (capacity building).

The aim of these workshops was twofold:

1. To review Fletcher et al 2002 original ICWT at a national Indigenous workshop.
2. To conduct risk assessments using refined ICWT as a guide in the regional workshops.

These aims correspond with the first two steps in the national ESD reporting framework Processes (Figure 2.3 red circle).

There is a caveat that needs to be acknowledged in conducting Indigenous research in Australia especially in the fisheries space. This was borne out during the workshops and relates to the high levels of animosity and suspicion held by Indigenous communities towards fisheries agencies which is a result of their treatment over the years by successive governments. This is particularly relevant in the fisheries space where a traditional resource has been appropriated over several decades for commercial and recreational purposes without much thought given to the impact that might have on Indigenous rights and interests.

The research team was well aware of this issue and tried to plan accordingly for example by; being open and transparent, not trying to push a particular agenda or approach, being flexible in the design and implementation of the project and trying to meet the needs of those communities participating in the project.

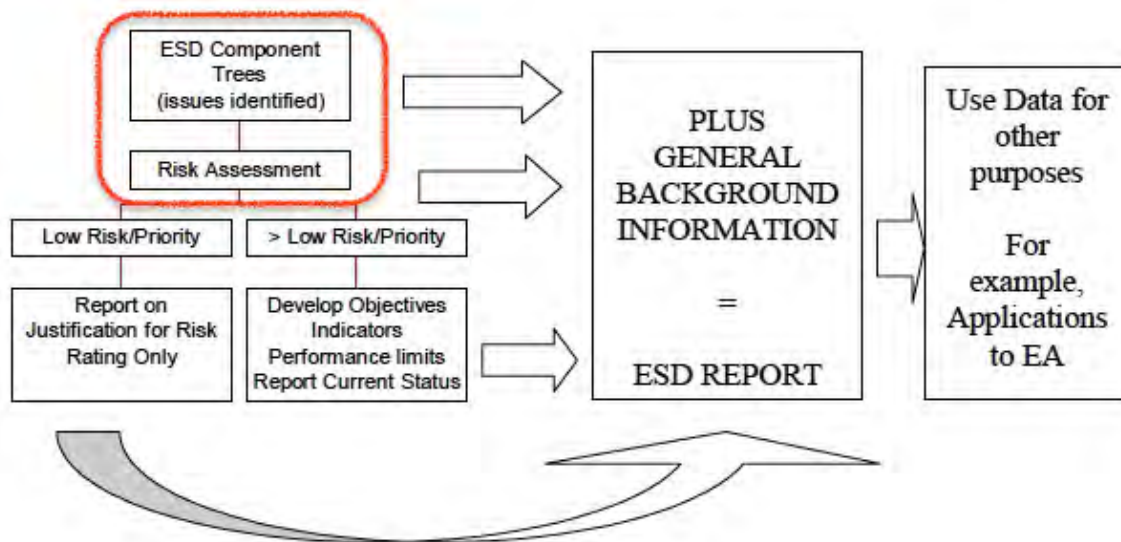


Figure 2.3: The national ESD reporting framework processes (adapted from Fletcher et al 2002)

National workshop

The national workshop was planned to coincide with an IRG meeting in Cairns on 9th of March 2016. The intent of this workshop was to outline for IRG members the ESD risk assessment process for fisheries and then engage them in an assessment of elements of ICWT (see Figure 2.2) produced by Fletcher et al in 2002. Essentially the research team wanted to gauge IRG feelings about the adequacy of the existing ICW generic component tree subcomponents and seek recommendations on its application at a more local level.

Regional workshops

There were two aims for each of regional case study workshops.

Aim 1

The first aim was to compare the degree of correspondence between the components of ICW as identified by participants in the regional workshops with the ICW component tree developed in Fletcher's national workshop (see Figure 2.2).

The process for developing and using a GCT as proposed by Fletcher et al 2002 was modified. Rather than go in with an already established ICW generic component tree, the research team felt that allowing the community to first identify their issues would encourage more active participation during the workshop. Having identified the issue, the research team then categorised them into components for an ICWT specific to the community in question.

Aim 2

The second aim was to use ICW component tree developed for the community to guide participants through the risk assessments process. This also involved assigning a level of risk to each of the components in the ICW component tree using a combination of consequence and likelihood levels (Figure 2.4).

Participants, with guidance from the facilitator, used the consequence-likelihood matrix (Figure 2.5) and through consensus, were able to assign a risk value to each component in the ICWT. Note that the calculated risk values ranged from 0 to 30.

Risk rankings based on risk value ranges were also assigned (see Figure 2.6).

Level	General
Negligible (0)	Very insignificant impacts. Unlikely to be even measurable at the scale of the stock/ecosystem/community against natural background variability.
Minor (1)	Possibly detectable but minimal impact on structure/function or dynamics.
Moderate (2)	Maximum appropriate/acceptable level of impact (e.g. full exploitation rate for a target species)
Severe (3)	This level will result in wider and longer term impacts now occurring (e.g. recruitment overfishing)
Major (4)	Very serious impacts now occurring with relatively long time frame likely to be needed to restore to an acceptable level
Catastrophic (5)	Widespread and permanent/irreversible damage or loss will occur – unlikely to ever be fixed (e.g. extinctions)

Level	Descriptor
Likely (6)	It is expected to occur
Occasional (5)	May occur
Possible (4)	Some evidence to suggest this is possible here
Unlikely (3)	Uncommon, but has been known to occur elsewhere
Rare (2)	May occur in exceptional circumstances
Remote (1)	Never heard of, but not impossible

Figure 2.4: Consequence and likelihood tables showing respective levels and corresponding numerical values as well as descriptors (Fletcher et al 2002).

		Consequence					
		Negligible	Minor	Moderate	Severe	Major	Catastrophic
Likelihood		0	1	2	3	4	5
Remote	1	0	1	2	3	4	5
Rare	2	0	2	4	6	8	10
Unlikely	3	0	3	6	9	12	15
Possible	4	0	4	8	12	16	20
Occasional	5	0	5	10	15	20	25
Likely	6	0	6	12	18	24	30

Figure 2.5: Consequence-likelihood matrix showing risk rating levels. Levels calculated by multiplying the participant assigned likelihood level value by the participant assigned consequence level value (Fletcher et al 2002).

Risk Rankings	Risk Values
Negligible	0
Low	1-6
Moderate	7-12
High	13-18
Extreme	> 19

Figure 2.6. Risk rankings based on risk value ranges (adapted from Fletcher et al 2002)

Workshop General

Each workshop was conducted over a two-day period with each day divided into four one and a half hour sessions. Day one focussed on the first aim and day two on the second aim.

The selection of the locations for the three regional workshops took into consideration advice from the national workshop, the research teams' knowledge of coastal Indigenous communities, geographical coverage, Aboriginal and Torres Strait Islander interests and

previous level of engagement around fisheries issues. With these points in mind the research team selected the following regions;

- The south coast of NSW encompassing the Yuin people, specific town, Moruya.
- North Stradbroke Island, south Queensland encompassing the Quandamooka-Yoolooburrabee people, specific town, Dunwich.
- Torres Strait Island, specific island, Horn Island.

For each of these locations' individual members of the research team had previously developed strong connections over time with members of these communities. These personal connections made it easier to select a key person in the community to act as a contact for the life of the project. Having previous contact with these communities also potentially lessened the degree of suspicion and animosity a community might show toward someone from outside coming in to discuss sensitive issues relating to fisheries.

Workshop Planning

The research team initially made contact with each community via phone and email to establish if there was interest in being involved in the project. An information sheet outlining the project including the aims, team membership etc. was emailed to the contact person and this was followed up with face-to-face meeting(s) involving a team member(s) and the contact person from the community and others. At this meeting the team member(s) explained the overall project and outlined the methodology to be used during the workshop. Dates and a suitable venue for the workshop were agreed on as well as the numbers of participants.

Workshop Structure

Each workshop ran over two days with each day divided into four by one and a half hour sessions.

Day 1

The workshop opened with a welcome to country given by the traditional owners of the area. This was followed by an introduction to all of the research team members. Then an introduction to the workshop given by the project PI in which the processes involved in ESD fisheries management were explained and questions from participants answered.

Following the introduction, the PI invited each participant to introduce themselves and to say what they thought were two key issues relating to their fishery. This step acted as an 'icebreaker' as it immediately involved all participants in a key aspect of the session which was identifying values held in a fishery and the issues the community had with their fisheries.

Through interactive discussion the identification of values and issue by participants followed on seamlessly from the 'icebreaker' activity.

During each session at least two other members of the research team took notes to ensure that a record of all the issues, values and related background information was made.

In the evening the values/issues identified by participants were collated to create the components of GCT specific to that community. This ICWT was then used on Day 2 to guide the risk assessment process.

Day 2

The second day started with a recap of the previous day work including a presentation of the ICWT based on the issues/values identified.

The recap was followed by an explanation of the concept of risk and how risk is assessed and then used as a means of prioritising issues. The process for determining risk levels using consequence-likelihood tables for each component of the ICWT was described and an example was given to show how risk values were determined

For each component of the ICWT a data sheet was prepared which included in the title, the component and subcomponent being assessed, space for background information and a consequence likelihood table and a justification section.

Risk assessments were then conducted for each of the subcomponents of the ICWT.

Post Workshop

A draft report of the workshop was developed in the weeks following and this was sent back to participants so that they could provide review outcomes and provide further feedback. Each community report was then finalised so that it could be presented to the communities.

Results – Section 2

National Workshop

The workshop took place in Cairns on the 9th of March 2016 and it ran for four hours from 1pm to 5pm. Eleven Indigenous people including, eight IRG members and some indigenous fishers from a previous workshop attended the workshop. Eight observers also attended including representatives from FRDC, OceanWatch, University of Tasmania, Australian Institute of Aboriginal and Torres Strait Islander Studies and the NSW Department of Primary Industries (Fisheries)

The workshop was facilitated by the projects' principal investigator (PI) and Dr Rick Fletcher gave a presentation on ESD and risk assessment. This was followed by an open group discussion. Notes were taken by other members of the research team and these were used to identify any new components that could be added to the original ICW generic component tree produced by Fletcher et al 2002.

Regional Workshops

Three regional case study workshops trialling the RA methodology were conducted between May and December 2016 (Table 2.1).

Each of the workshops was well attended with a spread of age groups, gender and profession. Generally speaking, participants at all workshops were passionate about their

fisheries and keen to provide their views as to the impacts of non-indigenous fisheries on their fisheries. As a result of that passion it was often difficult for the facilitator to keep participants moving at an even pace. Often one person raising an issue would stimulate another person who would jump in and speak over the first person. This proved challenging for the note takers especially when the second person was adding a new issue to the discussion and it required a degree of expertise in this area to keep track and record key pieces of information. The benefit of having multiple note takers was that the information could be checked and aggregated at the end of each day to pick up relevant matters. Another problem was that some participants tended to dominate the discussions and the facilitator had to be careful not to cut them off out of respect, especially elders. However, by using facilitation techniques that encourage all participants to be involved, it was felt that workshop participants' views and thoughts were captured.

Table 2.1: Locations of the three regional workshops, community engaged, relevant fishery and numbers of community members attending in 2016.

Date	Location	Community	Fishery	No.
23-24/5	Moruya (NSW)	Yuin	Abalone	14
23-24/6	Nth Stradbroke Isl. (Qld)	Quandamooka-Yoolooburrabee	All fisheries and Marine Parks	24
6-7/12	Horn Island (TSI)	Torres Strait Islander	Tropical Rock Lobster	8

It was also apparent that even with workshop background information being provided beforehand and then reinforced in the introduction and during the workshop many participants struggled with fisheries management and research concepts, especially those underpinning the risk assessment process. However once participants were guided through a couple of examples the assessment process became easier. The value of potentially undertaking pre-workshop meetings to increase participants' capacity was highlighted here.

Another issue that arose was the desire shown by each of the three communities to be able to use the outcomes of the workshops immediately. The PI had to explain on several occasions that the workshops involved a trial run of an existing methodology rather than an 'actual' risk assessment as part of some planned review of an existing fishery. Nevertheless communities wanted to be able take what they had learnt from the process in dealing with existing problems they face in their fisheries.

Workshop Reports

Reports were written for each of the participating communities and these reports are available in Appendix 2.1, 2.2 and 2.3. Rather than repeat the results contained in each of those report in detail here, a brief outline of the key results will be given under the headings of:

- Issues, Values and ICW Component Tree
- Risk Assessments of ICW Component Tree

Issues, Values and ICW Component Trees (Day 1)

There were many similarities in the issues and values identified by each community during the three workshops and this is reflected in the similarities between ICW component trees (Figures 2.7, 2.8 and 2.9). For example, at the second level of the ICWT the subcomponents for all three case studies included cultural practice, economy, governance/management, social and environment. Similarly, at the next level the sub-subcomponents tended to be fairly similar, for example;

- **Cultural Practice** included; Traditional Fishing Knowledge and Traditional Fishing Management, social structure and identity.
- **Governance/Management** included; legal instruments, compliance, access, engagement, communication, entitlement and capacity.

The differences between the communities in each of the case studies tended to be in the emphasis placed on some of the subcomponents measured in terms of the numbers related issues that could be bundled up under a particular issue. For example, the participants in the Moruya workshop placed great emphasis on access and compliance while the Dunwich workshop emphasised access. The Horne Island workshop placed a lot of emphasis on legal instrument reflecting the role that the Torres Strait Treaty plays in fisheries management in that region. Generally speaking, all three case studies placed most emphasis on cultural practice, governance/management and economy.

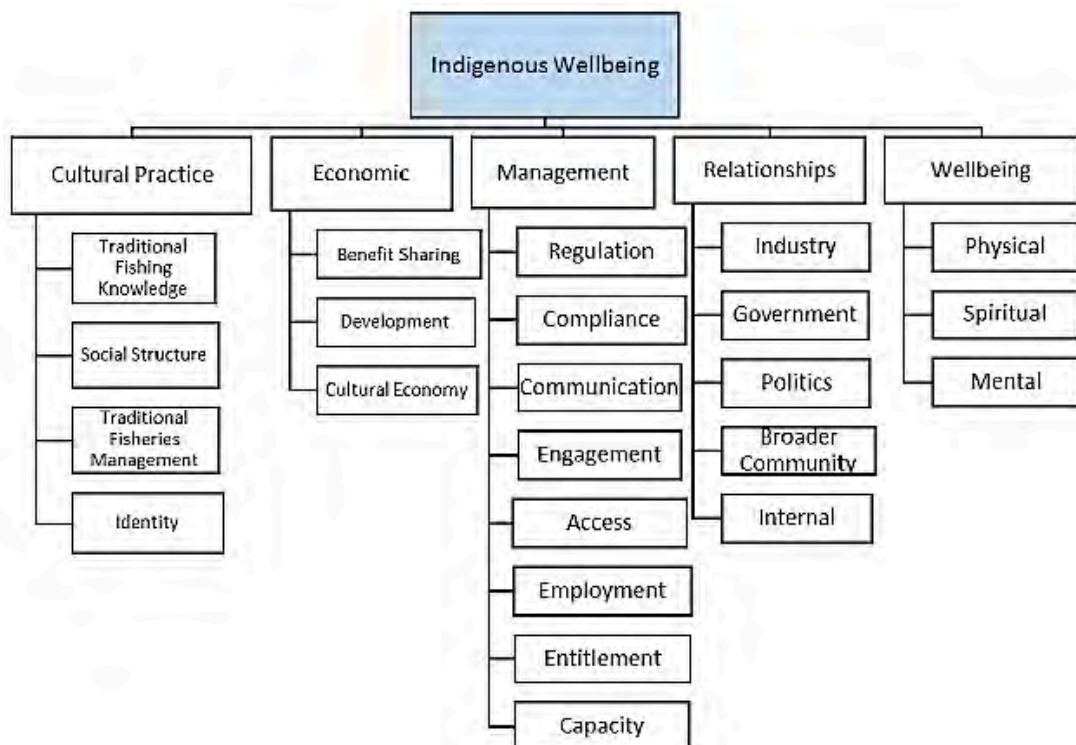


Figure 2.7. ICW component tree for the Yuin people developed on Day 1 of the workshop at Moruya, on the south coast of NSW, May 2016.



Figure 2.8. ICW component tree for the Quandamooka-Yoolooburrabee people, developed on Day 1 of the workshop on North Stradbroke Island, southern Qld, June 2016.

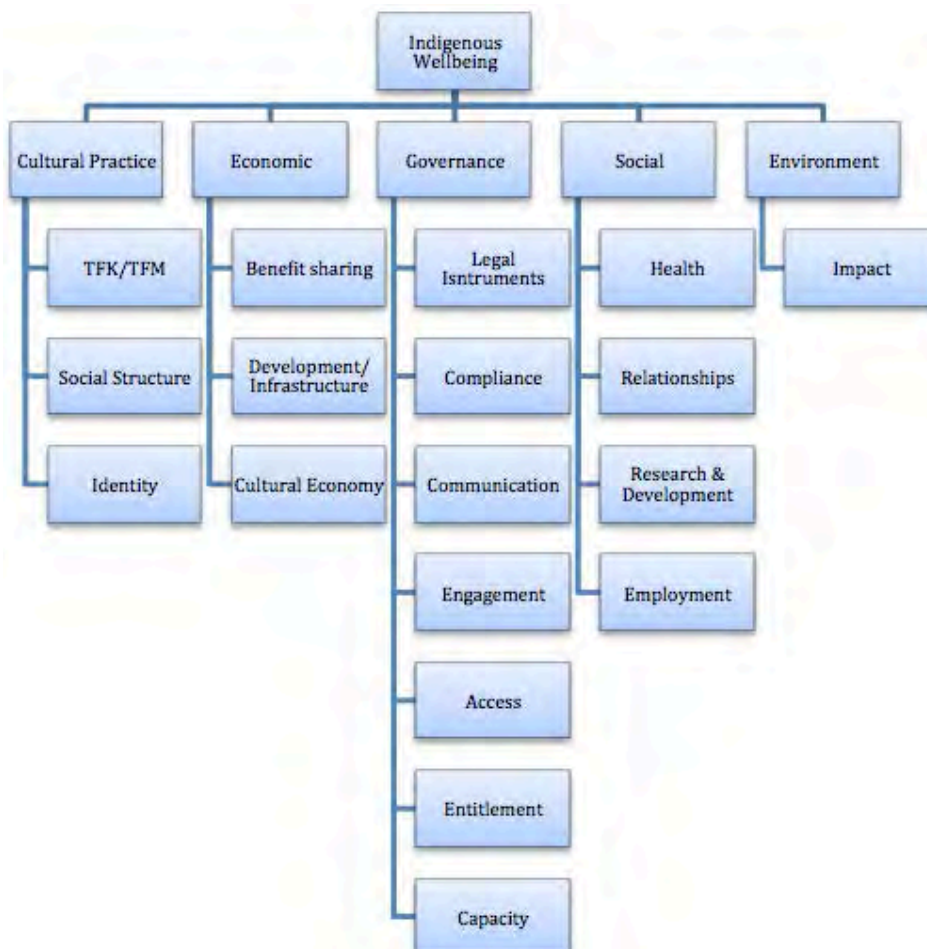


Figure 2.9. ICW component tree for the Torres Strait Islanders developed on Day 1 of the workshop on Horne Island in the Torres Straits, December 2016.

For a more comprehensive view of the issues and values identified by communities participating in each of the three case study workshops refer to the individual reports in Appendix 2.1, 2.2 and 2.3.

Comparison with Other Studies

The results from the three regional workshops corresponded well with other projects that have involved identification of Indigenous fisheries issues and values. For example, a national Indigenous workshop, which was held in Cairns in 2010 to identify RD&E priorities for Indigenous fisheries in Australia (Calogeras et al 2011). Participants at that workshop identified several issues of concern in relation to Indigenous fisheries, which were collated to create eleven broad RD&E principles.

These were further refined into five RD&E Priority areas that could be addressed through fisheries related RD&E. These principles corresponded closely with the various branches of the ICWTs developed in the current project (Table 2.2).

Comparison with other studies is extremely limited however the PI is familiar with the recent threat and risk assessment (TARA) conducted by the Marine Estate Management Authority (MEMA) for the marine environment in NSW. One component of the TARA process related to the assessment of the impacts of the proposed management plan for the NSW Marine Estate on Indigenous interests (see New South Wales Marine Estate Management Authority 2016). Similar tools were used to develop risk rankings in the TARA process to those used in this project. Table 2.6 shows some of the risk rankings from the TARA process relating to Indigenous cultural heritage and use. In comparison to the current project, the TARA rankings for similar issues are lower than those in the current project (refer back to Tables 2.3, 2.4 and 2.5).

Table 2.2. Correspondence between issues and values identified at the Cairns workshop in 2010 and the three regional workshops held in 2016. (ICWT=Indigenous Community Wellbeing Tree, IFK=Indigenous Fisheries knowledge, IFM=Indigenous Fisheries Management)

Cairn Workshop 2011: Principles informing RD&E	Regional Workshops 2016: ICWT components combined
Principle 1. Enhancing Indigenous fisheries recognition	Culture - IFK, IFM, Identity Economic - Benefit sharing, Cultural economy Governance/Management - Communication, Engagement, Access Relationships - <i>all</i> Wellbeing - Spiritual
Principle 2. Resolving issues around access	Economic - Benefit sharing, Cultural economy Governance/Management - Legal instrument, Regulation, Engagement, Access, Entitlement Relationships - <i>all</i> Wellbeing - Spiritual, Physical
Principle 3. Improving governance, pathways to better representation and management models for Indigenous peoples	Governance/Management - Communication, Engagement, Employment, Access, Entitlement, Capacity Relationships - Government, Industry, Broader community, Politics, Internal community
Principle 4 Provide resourcing options to encourage greater Indigenous Involvement	Economic - Benefit sharing, Development Governance/Management - Engagement, Capacity, Entitlement Relationships - Government, Industry, Politics, Broader community

Principle 6. Agencies recognising and utilising Indigenous expertise, processes and knowledge	Culture – IFK, IFM, Social structure Economy - Cultural economy Governance/Management - Engagement, Communications, Capacity Relationships - Government, Internal community, Research & Development Wellbeing - Spiritual
Principle 7. Recognising customary rights and knowledge and incorporating Indigenous IFK and IFM .	Culture - IFK ² , IFM ² Economic - Benefit sharing, Cultural economy Governance/Management - Legal instrument, Regulation, Engagement, Access, Employment Entitlement, Capacity Relationships - Government, Industry, Politics, Broader community Wellbeing - Spiritual
Principle 8. Improving knowledge and awareness of impacts on the environment and Indigenous traditional harvest	Culture - IFK, IFM, Social structure, Identity Economic - Benefit sharing, Cultural economy Governance/Management - Legal instrument, Regulation, Compliance, Access, Employment Relationships - Government, Industry, Politics, Broader community Wellbeing - Spiritual, Physical, Mental
Principle 9. Providing management arrangements that lead to improved access, protection and incorporation of IFK and IFM input to processes	Culture - IFK, IFM, Social structure Economic - Benefit sharing Governance/Management - Legal instrument, Engagement, Communication, Access, Employment, Capacity Wellbeing - Spiritual, Relationships - Government, Industry
Principle 10. Increasing value for Indigenous peoples (where value includes; economic, social, cultural, health, environmental)	Culture - Social structure Economic - Benefit sharing, Development, Cultural economy Governance/Management - Legal instrument, Engagement, Access, Employment, Capacity Wellbeing - Spiritual, Physical, Mental
Principle 11. Developing benefit sharing arrangements with Indigenous people.	Culture – IFK, IFM Economic - Benefit sharing Governance/Management - Legal instrument, Access, Employment, Capacity Relationships - Government, Industry, Politics

Risk Assessment of Fishery on Indigenous Community Wellbeing (Day 2)

Day 2 of the workshops focussed on undertaking risk assessments using the respective ICWTs (ICWT) to guide the process. To facilitate the documentation, data sheets were developed for each component of the ICWT. The data sheets had a blank consequence-likelihood table and space for notes relating to background on the component and reasons for the risk values recorded. These were completed during assessments by one of the research team members.

An example of a completed data sheet can be seen in Figure 2.10. This one was completed on Day 2 of the workshop on Horne Island in the Torres Strait and it can be found in the respective report available in Appendix 2.3. The data sheet shows the particular subcomponent being assessed, in this case Access, set within the context of the broader component, Governance, alongside all of the other subcomponents. The data sheets were presented this way in order for the participants to keep a track through the day of where the group was in assessments relation to the overall ICWT.

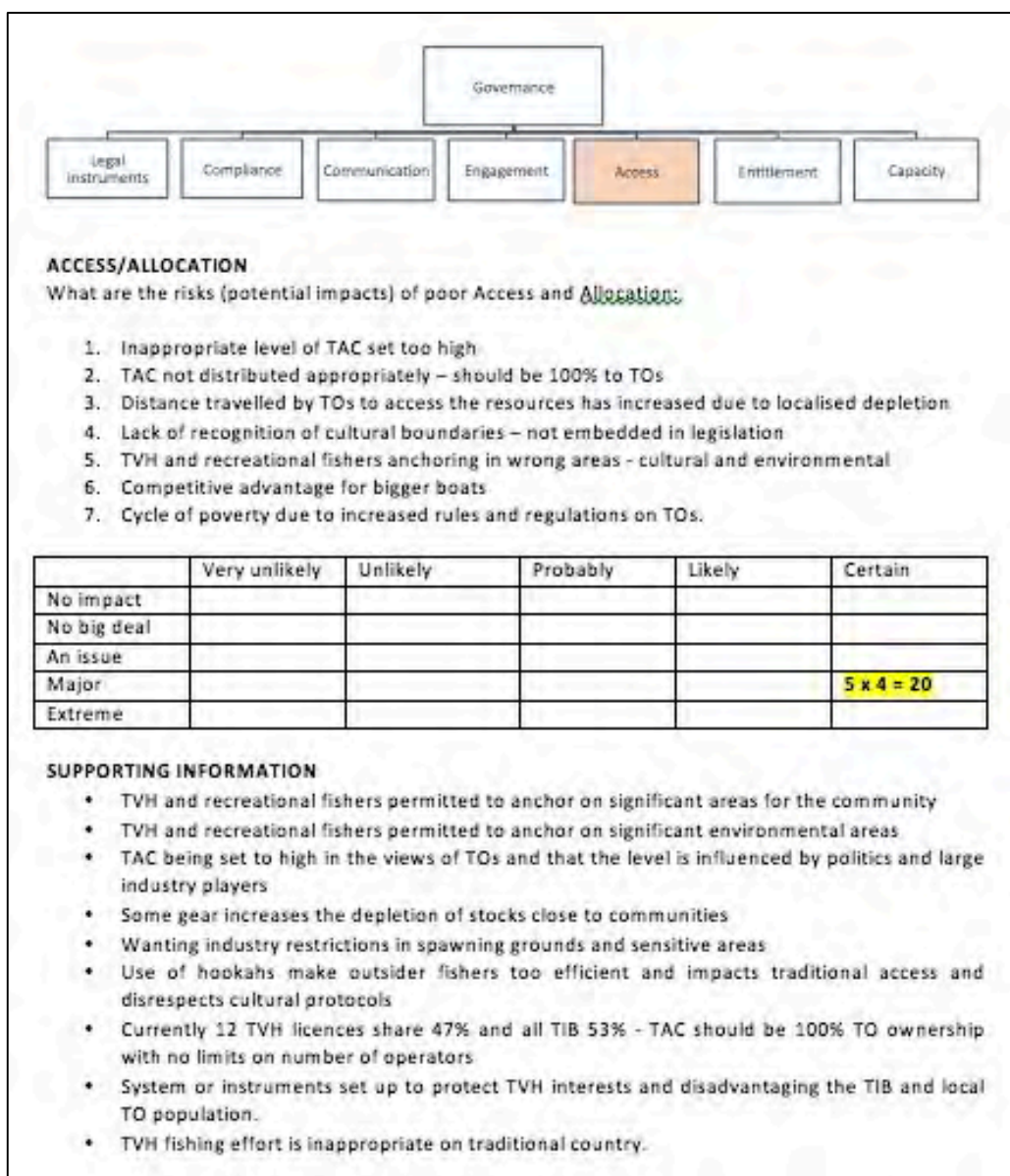


Figure 2.10. A completed risk assessment data sheet from Day 2 of the workshop on Horn Island in the Torres Strait, December 2016

Totals of 24, 24 and 25 data sheets were completed respectively at Moruya, North Stradbroke Island and Horne Island. The risk values and risk rankings for each component and subcomponent of the respective ICWT's are provided in Tables 2.3, 2.4 and 2.5. The 3rd and 4th columns of the tables reflect the branches of the ICWT's in Figures 2.7, 2.8 and 2.9.

Table 2.3 Risk Values and Risk Ranking has determined by participants during Day 2 of the case study workshop conducted at Moruya, southern NSW 2016.

	Component	Subcomponent	Risk Values	Risk Ranking
INDIGENOUS WELLBEING	CULTURAL PRACTICE	Traditional Fisheries Knowledge	25	Extreme
		Social Structure	25	Extreme
		Traditional Fisheries Management	25	Extreme
		Identity	25	Extreme
	ECONOMY	Benefit sharing	25	Extreme
		Development	25	Extreme
		Cultural economy	25	Extreme
	MANAGEMENT	Regulation	25	Extreme
		Compliance	25	Extreme
		Communication	25	Extreme
		Engagement	25	Extreme
		Access	25	Extreme
		Employment	25	Extreme
		Entitlement	25	Extreme
		Capacity	25	Extreme
	RELATIONSHIPS	Allocation	25	Extreme
		Industry	25	Extreme
		Government	25	Extreme
		Politics	25	Extreme
		Broader community	25	Extreme
WELLBEING	Internal	9	Moderate	
	Physical	25	Extreme	
	Spiritual	25	Extreme	
	Mental	25	Extreme	

Table 2.4 Risk Values and Risk Ranking has determined by participants during Day 2 of the case study workshop conducted at Dunwich, North Stradbroke. Island south east Queensland June 2016.

	Component	Subcomponent	Risk Value	Risk Ranking
INDIGENOUS WELLBEING	CULTURAL PRACTICE	Traditional Fisheries Knowledge	21	Extreme
		Social Structure	25	Extreme
		Traditional Fisheries Management	21	Extreme
		Identity	25	Extreme
	ECONOMY	Benefit sharing	25	Extreme
		Development	20	Extreme
		Cultural economy	25	Extreme
	Management	Regulation	25	Extreme
		Compliance	25	Extreme
		Communication	20	Extreme
		Engagement	25	Extreme
		Access	25	Extreme
		Employment	25	Extreme
		Entitlement	25	Extreme
		Capacity	25	Extreme
		Allocation	20	Extreme
		Relationships	Industry	20
	Government		20	Extreme
	Politics		25	Extreme
	Broader community		25	Extreme
	Internal		25	Extreme
Wellbeing	Physical	25	Extreme	
	Spiritual	10	Moderate	
	Mental	25	Extreme	

Table 2.5 Risk values and risk ranking has determined by participants during Day 2 of the case study workshop conducted on Horn Island in the Torres Strait December 2016.

	Components	Issues	Sub Issues	Risk values	Risk Ranking	
INDIGENOUS WELLBEING (12)	CULTURAL PRACTICE (19)	TFK		16	High	
		Social Structure		20	Extreme	
		Identity		20	Extreme	
	ECONOMY (13)	Benefit sharing		9	Moderate	
		Development		15	High	
		Cultural economy		16	High	
	GOVERNANCE (17)	Legal Instruments	Treaty		12	Moderate
			TS FA 1984		20	Extreme
			Native Title		9	Moderate
			EPBC Act		9	Moderate
			Draft TRLFMP		25	Extreme
		Compliance		20	Extreme	
		Communication		20	Extreme	
		Engagement		20	Extreme	
		Access/Allocation		20	Extreme	
		Entitlement		12	Moderate	
		Capacity		16	High	
	SOCIAL (24)	Health		25	Extreme	
		Relationships		25	Extreme	
		R&D		15	High	
		Employment		15	High	
		Education		16	High	
	ENVIRONMENT (18)	Shipping Disasters		15	High	
Fishing boat Wrecks			20	Extreme		
Other			20	Extreme		

For workshops at Moruya and Dunwich all but one component for each community attracted a risk value of 25 and a corresponding risk ranking of 'Extreme'. This contrasted with the Horn Island workshop results where approximately 50% of the components were assigned a risk value of 25 and risk ranking of 'Extreme'. Twenty-eight per cent fell into the 'High' ranking and 20% into the 'Moderate' ranking.

Participants in all three workshops struggled initially with the concept of 'risk' having two elements, 'consequence' and 'likelihood' and the rationale behind combining these to generate a 'risk value' and an associated 'risk ranking'. However, as participants became more familiar with the calculation process they were able to quickly assign risk values.

The research team found that the risk or consequence level could vary for participants according to differing demographics.

Comparison with NSW MEMA Risk Assessment Process

Care needs to be taken when interpreting this comparison as there were differences in relation to the approaches and methodologies applied in both cases. It is also worth noting that MEMA, since the development of the draft report has undertaken a series of consultations on the TARA results with eleven Aboriginal groups along the NSW coast as well as with two peak Aboriginal advisory bodies. The results have yet to be made public, but it is possible that these consultations may result in higher risk values being placed on some of the 'stressors' listed in Table 2.6).

Table 2.6. Risk rankings developed through the MEMA process in NSW.

Threats	Stressors	Cultural heritage & use	
		Tangible (historic objects, places, items, and source of food)	Intangible (traditions, practices, knowledge, spiritual values)
		Risk Level	Risk Level
Resource use conflict	Conflict over resource access and use	Low	Low
	Overcrowding / congestion	Low	Low
	Loss or decline of marine industries	Minimal	Low
	Excessive or illegal extraction	Low	Minimal
	Habitat disturbance e.g. foreshore development, commercial/recreational fishing methods, 4-wheel driving, and extractive industries.	Moderate	Moderate
	Reductions in abundances of species and trophic levels	Moderate	Low
	Climate change	Moderate	Low
Governance of the marine estate	Inadequate, inefficient regulation, over-regulation (agencies)	Moderate	Moderate
	Lack of or ineffective community engagement or participation in governance	Low	Moderate
	Lack of community awareness of the marine estate, associated threats and benefits, regulations and opportunities for participation	Moderate	Moderate
	Lack of compliance with regulations by users or lack of compliance effort by agencies	Low	Minimal
Public safety	Wildlife interactions	Minimal	Minimal
	Seafood contamination	Low	Low
	Water pollution/contamination affecting human health and safety	Low	Low
Critical knowledge gaps	Inadequate social and economic information	Moderate	Moderate
Lack of access availability	Limited or lack of access infrastructure to the marine estate	Minimal	Minimal
	Loss of public access to areas	Moderate	Moderate

Workshop Feedback

Participants were asked on Day 2 how they felt the workshop went and what could be done better in the future. Key suggestions included:

- Adding an extra day to the workshop so everyone could be better familiarised with basic ESD, management and R&D principles.
- Presenting results from similar workshops conducted in other communities.
- Presenting an overall map of the whole process as a diagram to show where each step fits into the broader ESD process and management generally.
- Presentation on challenges around having to adopt western concepts to assess Indigenous needs and values, however it was felt there was a real benefit in being able to develop documents that can be enacted on and incorporated into more formal processes.
- Need to have a better understanding of western, research and management terminology and concepts – jargon and acronyms limit conversations.
- Supported a pre-workshop information on the ESD risk process session for the broader community.
- Noted the need for any outcomes from these types of workshop to be available to share with Traditional Owners and community members.
- More time allocated for introductions within the group, especially when you don't know each other.
- Workshops run better with independent people rather than government agency representatives facilitating.
- Mitigating the impacts on people involved in consultation – loss of wages and people
- Need to hold an Indigenous only meeting before broader stakeholder meetings to help understand and develop a position from all communities – this stops divide and conquer taking place.

Each research team member was also asked how they felt the workshops went and what could be done better in the future. Key suggestions included:

- Need a broad and detailed knowledge of the fisheries and areas being researched and the local acronyms and language words used to describe resources and actions.
- The need for the research team to understand community dynamics, sensitivities and their ability to engage participants openly.
- Essential to have good relationships and engage a local liaison before, during and after the workshop.
- Need to know the capacity of research participants to effectively tailor the workshop to gain efficiency and maximum participation

- Note that it is hard to separate overall community angst and disappointment at fisheries management and policies from specific risk issues
- Facilitators need the opportunity to assess the outcomes from the Day 1 meetings to test and fine-tune directions for Day 2.

Discussion – Section 2

General

The approach used by the research team to organise and then run the workshops seemed to have all the necessary steps in relation to the pre, during and post workshop activities. Establishing an early communication channel by identifying and engaging a key contact person in the community who had some experience in fisheries was essential to the overall pre-workshop planning. Their knowledge of community dynamics made it a lot easier to select workshop dates, venues and more importantly potential participants. They were also instrumental in spreading the word about the workshop as well as circulating pre-workshop information. The contact person also helped in organising catering for the workshop and the project team provided resources in support of this role. Pre-workshop meetings between research team members with the contact person on site provided an opportunity for explaining the project in more detail. This meant the contact person was in a better position to answer questions from potential participants.

Having a research team of comprising four people proved invaluable in ensuring that the workshop ran smoothly. This was especially so when taking notes during the interactive group discussions aimed at identifying issues and values and developing the ICWT on the evening of Day 1. Participant enthusiasm meant that ideas came in abundance and at a fast pace, sometimes simultaneously from one, two or three individuals. With two note takers operating concomitantly they could mostly capture the gist of simultaneous participant commentary. The facilitator made notes on a white board at the front to keep the group up to speed with ideas already noted. When necessary the facilitator could use these notes as a point of stimulus when the group discussion was waning, or to refocus the group when the discussions went off on an unrelated tangent. Maintaining focus had to be done carefully and with a degree of respect so as not to offend well intentioned, if not over enthusiastic participants.

Of particular use for the research team was having the key contact person involved during the workshop, especially to explain some locally relevant issues that were beyond the teams understanding. For example, at the Horn Island workshop in the Torres Strait, participants expressed some concerns they had with the Torres Strait Treaty, which is a basis for the Torres Strait Fisheries Act. Whereas the team initially felt the 'Treaty' provided great protection for the Torres Strait Islanders fishing rights through the Act, it became clear especially from the contact person that there were issues with how the 'Treaty' and the 'Act' addressed Papua New Guineans in relation to fishing.

Feedback from participants at the three workshops indicated a need for more time to be allocated to the workshops. This they said was to ensure a better appreciation of the rationale for the project in the context of current fisheries management and a better understanding of the methodology around risk identification and assessment.

Post workshop there was value in having a research team member visit participating communities to explain the outcomes of the workshops and answer questions on the draft reports. This has so far only happened for the Moruya workshop, there is an intention to follow up with the Stradbroke and Torres Strait communities.

The desire expressed by each community to use the outcomes of their workshops to address issues in their fisheries is yet to be acted on however the workshop at Stradbroke was the stimulus for a representative from the community to give an oral submission at the public hearings for the Productivity Commission Inquiry into Marine Fisheries and Aquaculture in Brisbane on the 12th of October 2016.

The Moruya workshop participants were also interested in using the outcomes in any future review of the NSW Abalone Fishery Management Plan as are the Torres Strait participants in the development of the Tropical Rock Lobster Management Plan. In this respect the PI has offered to provide advice should either of these aspirations area acted on.

ICWT: Issues and Values Identification

Using a process involving the identification of issues and values to start the regional workshops rather than being guided by an already prepared generic ICW component tree seemed to work well. It encouraged participants to engage immediately and allowed them to quickly share the depth of feelings that they had regarding their fisheries and the impacts of both non-indigenous fishing activities as well as fisheries management processes.

For example, the Moruya workshop centred on the abalone fisheries and what the impacts, both beneficial and detrimental, were on Aboriginal fisheries. A great deal of time was taken up in the first session of day-1 by participants airing grievances they had with the NSW fisheries department and their management processes. For example, having to deal with compliance officers harassing them when they go fishing, or with changes to commercial fisheries management that are forcing Aboriginal fishers out of the industry.

At the Stradbroke workshop, which encompassed all fisheries in that area as well as the marine park, participants were equally critical of management processes that had successively reduced their access to fisheries resources both for cultural and commercial purposes. In the Torres Strait workshop, which centred on the tropical rock lobster fishery, participants were focussed on what they felt were the potential impacts of the draft management plan for the fishery.

In all three workshops once participants' concerns had been declared they were able to move on to a constructive identification of issues and values.

Generally speaking, there was a similarity in the types of issues identified at each workshop. This possibly reflects the commonality of the Indigenous experiences over the last 100 plus years and the legacy left mostly resulting from disconnection from 'country' and resources. The imposition of culturally insensitive management arrangements has made it more difficult for Indigenous Australians to access fisheries resources for food and barter as well as to maintain cultural practices and related Indigenous ecological knowledge systems.

A result of this for the workshop process was the heavy emphasis placed by all participants on the impact of non-indigenous governance and management arrangements as a significant issue having a great bearing on their ability to maintain access to their fisheries for a variety of purposes. However, at the community level there was slight differences in emphasis on various subcomponents of governance and management. For example, at the Horne Island workshop much time was spent discussing legal instruments whereas in the two southern workshops, access and compliance received a much greater emphasis.

Two other components of the ICWT, cultural practice and economy, also received lengthy discussion especially around the issues of maintenance of cultural practice and the right to derive a commercial benefit from fisheries resources on ones' country. Both issues were linked by participants to what they believe is an active blocking of those rights by governance structures and processes.

When comparing the three regional ICWT's with the original developed by Fletcher et al (2002) one immediate difference is higher level of complexity in the former compared to the latter. Fletcher admitted that the process that led to the development of the original ICWT suffered from the way in which workshops were organised. He suggested the need to run workshops in the regions rather than centrally in cities as there are problems associated with getting Indigenous participants to those workshops. His suggestion is well supported by the level of detail provided by participants in all three workshops to the respective regional ICWT's.

In terms of the components of the original ICWT most of the sub-components in the regional ICWT's could possibly fit under those classifications, however the emphasis placed on governance and management in the regional workshops suggest that this ought to be an additional component in the original tree. However before adding to the original tree at the expense of developing a newer version there is a need for more case study workshops to realise an adequate set of ICWT subcomponents.

Risk Assessment

The high proportion of risk rankings in the extreme category especially for the Moruya and North Stradbroke Island workshops may appear to have been excessive but without other similar studies to make comparisons it is problematic to suggest that this might be an anomaly.

The draft report on the TARA process in NSW resulted in zero risk rankings in the 'High' category (equivalent to the 'Extreme' category in this project) for any of the 'stressors', (equivalent to issues in this project). However as mentioned earlier it is possible that once MEMA completes a series of local Aboriginal consultations on the risk rankings this situation could change.

Rather than an anomaly, these high rankings could reflect genuine Indigenous community concerns and a disconnect from the day to day management and policy framework that they find themselves having to operate in. As was noted at the Horne Island workshop 'the Fisheries legislation diminishes and doesn't value or respect our peoples historical and ongoing management structures.

Factors influencing these rankings could include the levels of animosity and anxiety that Indigenous participants have with respect to governing agencies. Especially as participants in all workshops felt that their fundamental rights to access fisheries have been at the worst ignored and at best dealt with in an ad hoc and piecemeal way.

Another possibility is that unfamiliarity with the process for assigning risk values through the consequence-likelihood table was such that participants preferred to err on the upper side of the ranking rather than the lower side.

To ensure that this isn't the case facilitators need to spend more time questioning and seeking evidence for the consequence and likelihood of potential risks and/or gaining a better understanding of these factors.

Independent evidence in support of risk value determinations made by participants for many of the components maybe non-existent in quantitative form leaving a reliance on qualitative data or information. The research team feels that more case studies similar to the those reported in the project would build a stronger qualitative evidence base for community based risk value determinations.

Conclusions – Section 2

The approach employed in this project to organise and run a series of workshops in Indigenous communities worked well. One addition to the process would be to add an extra day to allow more time for building participant capacity around fisheries management systems and approaches as well as on ESD and risk assessment methodology.

The research team believes that the lessons learnt from the three regional workshops undertaken for this project could be further expanded on by conducting at least 3 more workshops in other regions of Australia.

Adopting a more open approach involving brainstorming of ideas with Indigenous participants allowed for greater involvement of community participants in identifying issues for the ICWT. While this was a little different to the approach suggested by Fletcher et al 2002, the research team felt that it helped to relieve a high level of tension that can exist in Indigenous community workshops especially around fisheries related issues as in this project.

In the risk value determinations, it is suggested that the use of three or even four levels of consequence and likelihood might be better than the current five. This may make the consequence-likelihood table easier for the community participants to understand and navigate.

Implications – Section 2

As this Section of the project focussed on trialling a methodology, the impacts on end users is limited to the three communities engaged in the case study workshops and the researchers engaged in the delivery of the methodology and workshops. For the Indigenous participants one outcome was a better understanding of basic fisheries management methods as well as the risk assessment methodology. Other outcomes included using their

Workshop reports as a basis for submissions in to other fisheries management related processes (see Extension and Communication Section below for more details).

Outcomes for managers will become more apparent when the refined methodology is used in their jurisdictions to undertake risk assessment of fisheries on Indigenous cultural fishing.

Recommendations – Section 2

It is recommended that:

1. At least three more regional workshops be conducted in other regions of Australia using the methodology employed in this project.
2. any future workshops of a related nature be expanded from two to three days to allow more time for capacity building with the participants.
3. in conducting future risk valuations with consequence-likelihood tables that use of five levels of consequence and five levels of likelihood be reduced to three.
4. t the methodology adopted be used by all jurisdictions as a basis for future Indigenous risk assessments of fisheries management plans.

Extension and Adoption – Section 2

An important end user for the outcomes of this Section of the project will be fisheries managers as they now have access to a revised methodology for risk assessment of Indigenous fisheries. It is anticipated that as the awareness with in agencies grows this methodology will be utilised especially as part of the application of the ecosystems based approach to fisheries management.

Indigenous users have already begun to extend the outcomes of this project. At least two of the communities have used their workshop reports as the basis for submissions into other activities they were engaged in at the time. The NSW south coast Aboriginal community used their report to make a submission to the NSW marine estate threat and risk assessment process (see Annells, 2017). As a result, the NSW Marine Estate Management Strategy 2018 contains a committed of resources to the development of Indigenous cultural resource use plans for existing marine parks in NSW.

The North Stradbroke community used their workshop report to support a submission to the Productivity Commission Inquiry into the Regulation of Australian Marine Fisheries and Aquaculture Sectors in 2016. In 2016 the Torres Strait Island workshop participants used their workshop report to have input into the draft Torres Strait Fishery Tropical Rock Lobster (Kaiar)) Management Plan.

References – Section 2

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APPENDICES – Section 2

Appendix 2.1 Workshop Report: Moruya, NSW

FRDC Project 2014/233 - Improving access for Indigenous Australians to and involvement in the use and management of Australia's fisheries resources

Final Report
Outcomes of Case Study Workshop 1
Moruya NSW
23rd – 24th May 2016



Prepared by Project Group

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Chris Calogeras

Warning for Aboriginal and Torres Strait Islanders

Please be aware that this report may contain the names or images of deceased people. C-AID Consultants strives to treat Indigenous culture and beliefs with respect. We acknowledge that to some communities it can be distressing and offensive to show images of people who are deceased.

Terms and Definitions

Term	Definition
Consequence	Is the importance or relevance and the level(s) of impact(s) of something happening
Ecologically Sustainable Development	Common definition– ‘Using, conserving and enhancing the community’s resources so that ecological processes, on which life depends, are maintained, and the total quality of life, now and in the future, can be increased’
Generic Component Tree	Major areas of relevance (to fisheries) with respect to ESD are broken down further into sub-components and further in some cases to sub-divisions and presented in a tiered tree graphic.
Likelihood	The state or fact of something being likely; that is the probability or the chance of something happening
Risk	Is a combination of two things: likelihood and consequence. We decide how ‘risky’ something is by asking two questions: <ul style="list-style-type: none"> ○ how likely is this to happen (probability/likelihood) ○ how bad would it be if this did happen (severity/consequence) from a risk assessment perspective, it is the <u>chance</u> of something happening that will have an <u>impact</u> on objectives a community might set themselves in order to achieve a certain level of well-being.
Risk Assessment	Involves consideration of the sources of risk, their consequences and the likelihood that those consequences may occur
Traditional Fishing Knowledge	Traditional knowledge refers to the knowledge, innovations, and practices of Indigenous people and communities
Values	Principles or standards of behaviour. One’s judgement of what is important in life.

Acronyms and Descriptors

Acronym	Descriptor
AFAC	NSW Aboriginal Fisheries Advisory Council
FRDC	Fisheries Research and Development Corporation
IRG	Indigenous Reference Group
IRG	FRDC Indigenous Reference Group on Fisheries
RD&E	Research, Development and Extension

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1 INTRODUCTION

This document provides a meeting summary from the first case study workshop held at Moruya NSW in May 2016 under Phase 2 of the FRDC Project 2014/233 - Improving access for Indigenous Australians to and involvement in the use and management of Australia's fisheries resources.

Essentially Phase 2 of this project is aimed at testing and refining the methodology, developed by Fletcher et al (2002), to assess the impact of a fishery on Indigenous community wellbeing using a series of case studies (workshops).

2 PRE WORKSHOP ACTIVITIES

Prior to the workshop Hayley

A researcher in the team engaged two community liaisons (27th April 2016). One of the liaisons was present at Rick Fletcher's trial workshop at the Cairns IRG meeting in March 2016. Copies of Rick's presentation plus research papers were sent through to the liaisons, a researcher met with them before the process of engagement began to ensure they were clear about the project's intent. The liaisons and a researcher met and ran through in detail the ESD Risk Assessment framework to ensure the liaisons were well informed (27th April 2016). All material generated for participants was worked through with the liaisons first to ensure they were equipped to answer any questions. A researcher began by engaging a member from each Traditional Owner family within the area from Jervis Bay in the north to Wallaga Lake in the south (2nd to 4th of May 2016).

These key families were engaged for three reasons:

1. To ensure the research intent was clear and transparent throughout the research area
2. To give families the freedom to identify the appropriate representative for this research if they chose to participate, and
3. To ensure that the process was inclusive and built community capacity in this area.

All engagement in the initial stages to identify suitable participants was undertaken face to face with the community liaisons. Researchers felt it was important to ensure an open dialog from the outset. Conducting face to face engagement also provided an opportunity for the community liaisons to ask questions about the project workshop process and discuss fisheries matters in general. At the meetings a copy of the workshop invitation was distributed and explained in detail to ensure they understood the content prior to making contact with any potential workshop participants.

With assistance from the researchers the community liaisons drafted a list of key community members to invite to participate in the workshop (10th of May 2016).

The initial list contained 23 potential participants. These 23 people were engaged by the liaisons over the phone and in person where possible (10th to 12th of May 2016). They were given a copy of the invite and walked through it to ensure they understood the content and what would be expected of them at the workshop. Of the twenty-three, fourteen committed to attending the workshop.

The research team then produced three information documents (see Appendix 1):

- Workshop Information Brief
- Description of the Abalone Fishery
- Workshop Agenda.

All information was mailed, and emailed to participants 10 days before the workshop (12th of May 2016). A researcher and the community liaison worked together the week prior to the workshop to ensure all participants had a chance to familiarise themselves with the details of all documents either in person or over the phone (18th to 22nd of May 2016). The community liaisons were also engaged to provide any support to participants required to attend the workshop. This involved organising transport where needed.

As a result of the pre-workshop activities undertaken by the researcher and the community liaisons, participants that confirmed their attendance at the meetings were from TO families within the case study area, and of varying ages and genders. Due to the duration of the meeting (2 working days) it did make it hard to engage an even spread of ages and genders due to potential participants many other commitments. The team also made an effort to engage participants with fishing backgrounds and with differing fishing pressures. This included participants that are involved in the commercial fishery, those that hunt and gather using unique area specific techniques, key fishing knowledge holders and those that have been in contact with the law due to what they feel is exercising their cultural fishing rights and those that no long practice due to fear of prosecution.

The researcher worked with guidance from the liaisons and participants when identifying and booking a venue. The research team had initially intended on engaging an Aboriginal Organisation within the case study area though that was strongly advised against by the liaisons and participants as they considered it essential that the meeting was held in a place once removed from community politics. Under this advised the researcher located a conference room in Moruya, which was central for participants and was free of affiliations. The conference room was booked at the Luhana Motel in Moruya on the 2nd of May 2016 and in house catering was organised for the two days.

A researcher was on country prior to the beginning of the workshop to provide further support to participants, and the community liaisons to finalise the attendance logistics, workshop supplies and printing, and a conduct a final meeting with the venue owners to confirm the catering, room layout and necessary facilities were organised.

The remainder of the research team arrived in the day before the meeting (22nd of May 2016). A team meeting was held to discuss the final outline for the workshop day one and day two. This included assigning team roles and confirming appropriate data collection templates for each workshop session, discussing team member's experiences when undertaking similar activities, and developing strategies on how to mitigate any potential sticking points in the two-way flow of information from the workshop participants (including researchers). Bryan arrived on a later flight, his opinion was sort on all aspects and the team altered plans where appropriate.

Key Learning – Pre Workshop

- Benefit of pre workshop relationship building proved valuable
- Pre workshop information sharing was essential to focus participants given this process is quite intense and has a short time frame.

- Benefits include:
 - Researchers were aware of community politics
 - Participant dynamics, the ability to plan a workshop knowing who the big voices were in the room and culturally who held power.
 - Knowing in which specific area’s participants were from and a background on their cultural practices meant we knew where expertise was in the room.
 - Participants respected and were comfortable with half of the research team and trusted them enough to speak openly and engage with the whole research team.
 - There were no surprises for participants because they were all very well informed
 - Questions of the research were asked face to face by participants prior to the workshop aiding efficiency on the day.
 - Participants selected venue so everyone was comfortable in the space

3 FORUM PARTICIPANTS

Based on Fletchers work the appropriate number of participants for such a workshop is between 7 and 12. An ideal make up would see representative representation of people from the region noting age, gender and community and industry roles.

- Invited participants were drawn from the geographic area that was the ESD scope for the workshop. They were selected by members of the Traditional Owner Family’s within that region.
- Invitations were provided via mail, email and in person by the researchers or community liaisons.
- Around 23 participants were invited to attend with the final attendees list of 14 shown in Table 1
- Participants were provided with fees to cover expenses.

Participant’s demographics

- 14 participants
- 7% female
- 57% over 50
- 14% commercial fishers
- English was working language.

Table 1: Final Participants List¹ for the Case Study 1 – Moruya NSW

Gender	Age Range	Language	Role
male	50 -60	English	visited briefly – NSW Aboriginal Land Council delegate, chair NSW AFAC
male	35-45	English	Commercial fisherman Tomikan – inshore/river/lakes
male	65+	English	Commercial fisherman Moruya – inshore/rivers/lakes
male	50-60	English	Abalone diver – Mogo Served 18month for trafficking
male	30-40	English	Abalone diver no longer diving for fear of prosecution - Moruya
female	50-60	English	7 generation female diver, spearer (long line of very influential woman divers Wallaga Lake – last warning next offence jail time
male	40-50	English	Fisher past poler in the tuna fishery Narooma
male	40-50	English	Key knowledge holder Wreck Bay
male	65+	English	Paster knowledge holder – traditional teacher
male	40-50	English	Key fisher Nowra to Narooma
male	40-50	English	Knowledge holder diver past commercial every fishery
male	70+	English	Very respected medicine man – knowledge holder key teacher. Past commercial fisher
male	50-60	English	Liaison Key fisher - Narooma
female	50-60	English	Liaison
male	60+	English	Facilitator
female	30	English	Facilitator
male	40-50	English	Scribe
male	50-60	English	Scribe
male	40+	English	ESD Mentor

Key Learning – Participants

- Numbers were appropriate
- Additional numbers may have limited ability to dig deeper into issues and manage time

4 WORKSHOP AGENDA

The workshop was delivered over two days to allow sufficient time for matters of concern to be adequately discussed and recordable outcomes developed.

¹ Names have been removed.

The evening of day one also provided an opportunity for participants to discuss any outstanding or unresolved issues in private, before resuming on the second day. The Project Team used this time to discuss the data and discussions from day one to refine and guide the activities on day two.

As shown in Table 2 the Agenda was general in nature as the project team felt the workshop proceedings could take a number of different directions depending on how strongly the participant's views were on particular subjects within their scope of the concern. This would then provide an opening in the agenda to explore this further if needed.

The project team also discussed the need to undertake the first workshop, to then inform specific timings and agenda items for subsequent workshops.

The workshop was deliberately structured so day one gave participants an introduction the ESD risk assessment concept and the overall aims of the project. The participants were then provided with a semi-tutorial session on developing key objectives for their fishery, how to allocate a value to each objective by taking them through the process of documenting information by firstly identifying key fisheries issues and what could be causing those issues.

Key Learning – Agenda

- Over time and with increased experience the agenda may benefit from more precise and specific sessions.

Table 2: Workshop Agenda Moruya - 2016

<p>Two day Risk Assessment Workshop NSW – South Coast FRDC Project 2014 – 233 'Improving access for Indigenous Australians to and involvement in the use and management of Australia's fisheries resources'</p>
<p>AGENDA</p> <p>Workshop called by: Hayley Egan; Stephan Schnierer; Stan Lui & Chris Calogeras (Project Team) Type of Meeting: Ecological Sustainable Development --- Risk Assessment 2 day Workshop Date and Time: Monday the 23rd and Tuesday the 24th of May 2016, 9:00am to 4:00pm both days Venue: Luhana Motel, 82 Princess Highway Moruya. Meeting Room is next door to the motel reception Facilitator: Hayley, Stephan, Chris and Stan. Time Keeper: Chris or Stan Note Taker: Project team members. Please note this meeting will be recorded by Dictaphone, and if permitted by participants, video camera. This is for internal use only and will not be released. There will be a lot covered over the two days and this is just to ensure our team does not miss any important detail.</p> <p>Morning tea, Lunch and Afternoon Tea will be provided on both days</p> <p>DAY 1 – MONDAY 23RD OF MAY 2016 AT LUHANA MOTEL MORUYA 9:00am – Introduction to the research team and participants 9:30am – Purpose of the Workshop 10:15am – Develop group objectives 10:45am – Morning Tea 11:00am – Agree on values</p>

11:45am – Start assessing risk to values that relate to the group’s core objectives
1:00pm – Lunch
2:00pm – Continue with the risk assessment
3:00pm – Afternoon Tea
3:15pm – Continue with the Risk assessment
4:00 – Finish for the day

DAY 2 – TUESDAY 24TH OF MAY 2016 AT LUHANA MOTEL MORUYA

9:00am – Day 1 recap
9:30am – Continue with the risk assessment
10:45am – Morning Tea
11:00am – Continue with the risk assessment
1:00pm – Lunch
2:00pm – Continue with the risk assessment
2:45pm – Afternoon Tea
3:00pm – Discuss possible solutions
3:45pm – Wrap up and feedback
4:00pm --- Finish

5 WORKSHOP PROCESSES

5.1 WORKSHOP SCOPE

The scope was set to cover the taking of abalone by Indigenous fishers in the southern NSW region and assessing the impacts from non-Indigenous fishers, Agencies and impacts arising from the proclamation of Marine parks in the area.

5.2 WORKSHOP PROCESSES – DAY 1

Prior to the workshop formally commencing each member of the project team introduced themselves to each individual participant.

On commencement of the workshop participants provided their approval for the taking of photos for use in extending the FRDC project and to allow the videoing of the sessions to provide additional reference material when developing project products. It was agreed the video was not to be distributed and erased at the projects completion unless the group wished to keep a copy.

Stephan detailed the rationale for the workshop and provided an overview of the importance of ESD risk process followed by an around the table introduction. The introductions not only put names to faces but also gave an opportunity for all participants, including the project team, to explain their thoughts about the purpose of workshop and what they hoped to gain from it, i.e.:

- Need for cultural preservation
- Fishing and abalone are a way of life
- Use, access and fishing rights are cultural necessities
- Wanting to have a say in the process – currently no input and/or receive poor information
- Want non-Indigenous people/community to respect cultural fishing
- Want to stop being harassed for taking abalone and people going to jail and families being impacted.

The mid-morning session, facilitated by Stephan and Hayley, was structured in the orthodox workshop format in order to stimulate participants to develop group objectives and values. However, as this session progressed the group became more focussed on identifying individual issues with facilitators aggregating the issues into higher level values.

Whilst Stephan and Hayley were collecting information Stan and Chris were populating an excel sheet and recording notes that recorded each issue, identified the impact this was having on cultural fishing, and collecting key points from each participant's statements to use as justification and clarity around developed values (Appendix II and III).

Each participant was encouraged to provide input to the discussion however a small number of participants were identified by the Project Team that required more encouragement to participate more fully in the afternoon session. The issues provided are shown at Figure 1.

The afternoon session facilitated by Hayley and assisted by Stephan, identified Values from the Objectives that were developed in the morning session. High level Broad Values were created and then streamlined down to six key values – Wellbeing, Cultural Maintenance, Knowledge, Governance, Economic Opportunity and Social (see Figure 2). Through consensus it was agreed the Values best reflected the many issues raised and participants were comfortable that the all the issues could be aggregated into one of the values..

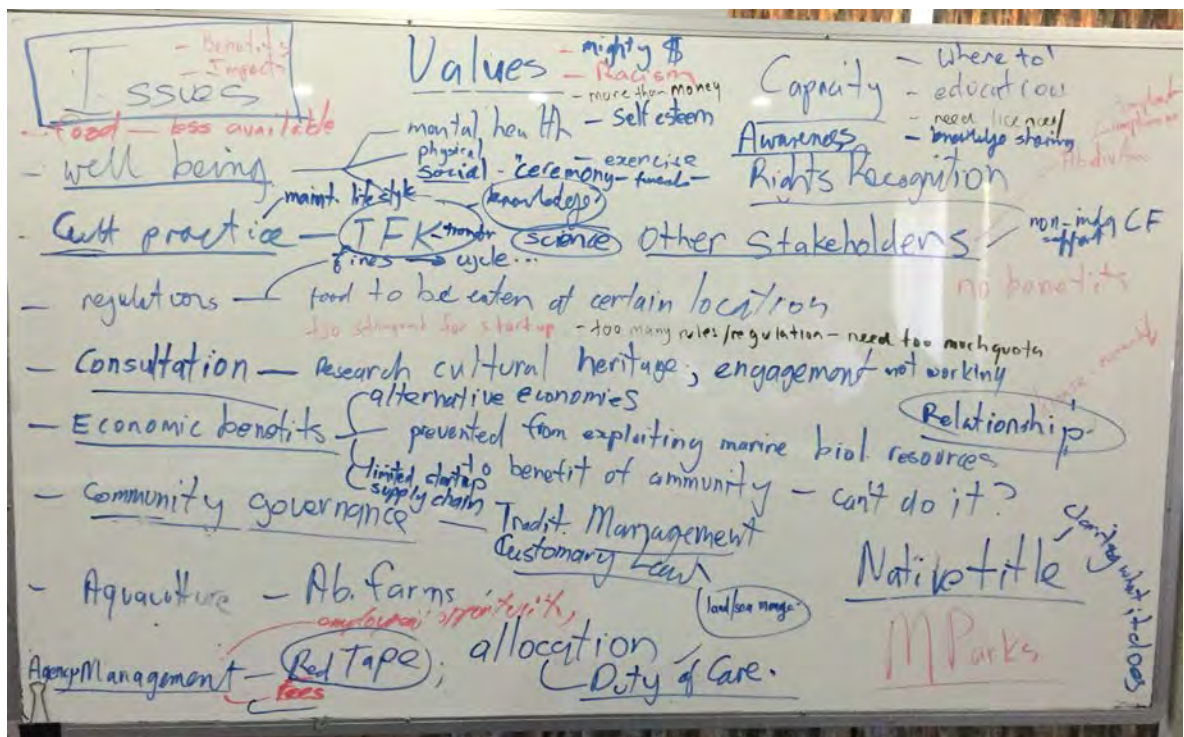


Figure 1: Issues and Values Identified - Morning Day 1 Moruya

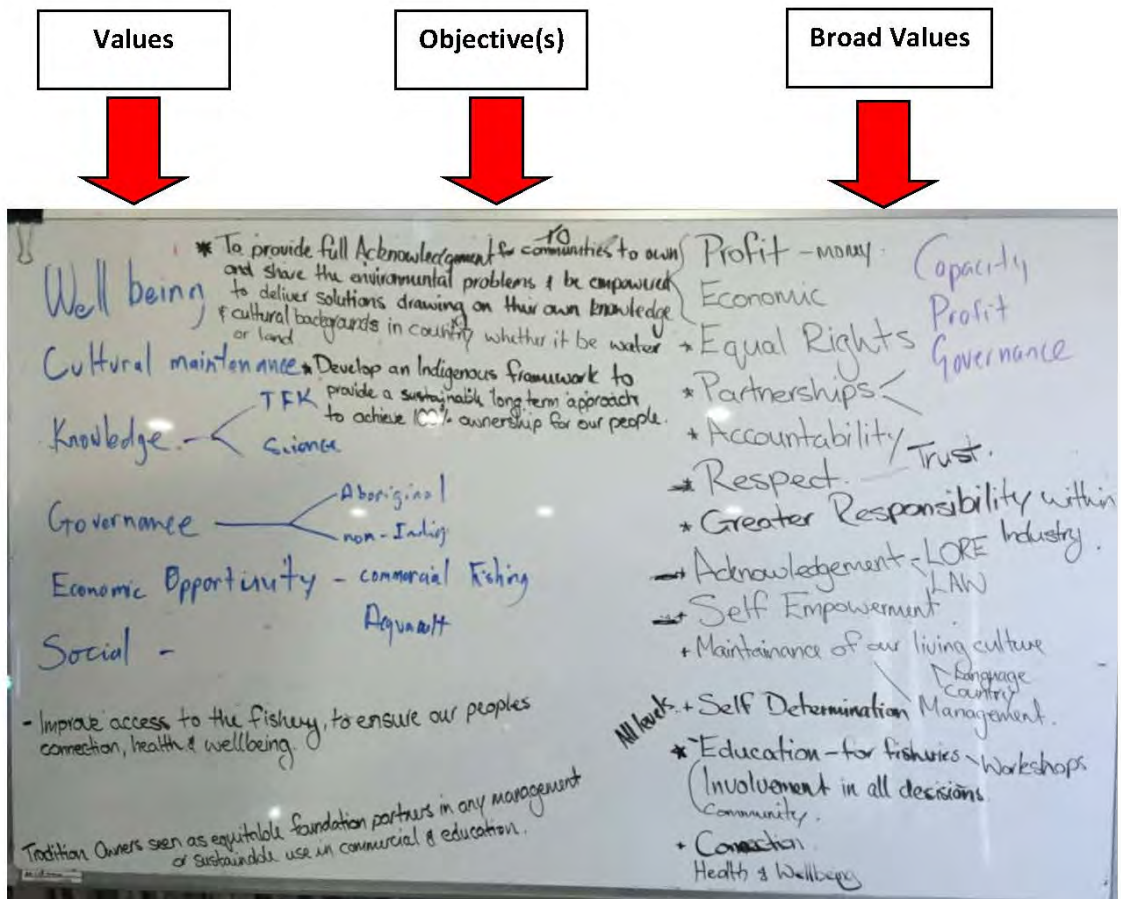


Figure 2: Broad Values, Values and Objectives - Afternoon Day 1 Moruya

From the Broad Values and the refined Six Key Values, participants sought to identify a number of Objectives.

As with most exercises such as this the overall feeling of participants was homogenised but the fine detailing of word-smithing made it difficult to get complete agreement in the early stages. This was jump started by the facilitators providing participants with some examples from other comparable exercise (Torres Strait).

By afternoon tea the bones of the objectives were developed and the Project Team fine-tuned the words during the break for the groups view.

With a small level of fine-tuning the Objectives were agreed to as provided in Table 3 below.

Table 3: Objectives – Day 1 Moruya

<ol style="list-style-type: none"> 1. To provide full acknowledgement for TO and communities to own and share the environmental problems and be empowered to deliver solutions drawing on their own knowledge, cultural backgrounds in country whether it be water or land. 2. Develop an Indigenous fishing and governance framework to provide a sustainable long-term approach to achieve 100% ownership for our people. 3. Improve access to the fishery to ensure our peoples connection, health, and wellbeing.
--

4. Traditional Owners seen as equitable foundational partners in any management or sustainable use in the commercial fishery and educational activities.

During all sessions Bryan was assessing the effectiveness of the process, data collection and relevance in respect to the overall ESD risk assessment process and providing advice.

Key Learning – Forum Processes Day 1

- Brief pre meeting introductions were very useful in establishing some level of relationship before the formal meeting
- Opening patter needs to be precise to ensure that participants understand the scope and process
- With the information collected around issues and values it may be possible to develop Excel sheets that can be populated rather than undertake it free form as happened in this workshop
- To facilitate the Objective development session possibly provide participants with some comparable examples to get them started
- Having the Project Team undertaken different but complimentary roles provided increased depth to knowledge collection.

5.1 OUT OF SESSION PROJECT TEAM WORK – DAY 1

The Project Team, at the conclusion of Day One, reviewed the raw data set (excel spreadsheet). As a collective, team members collated and refined the all information to improve the overall quality and provided more context and depth to the raw data.

In addition, the project team, by adding an additional column to the raw data set, created the Component element of the data set. These components were labelled as; Cultural Practice, Economics, Management, Relationships and Wellbeing. The enabled the project team to take each ISSUE and associated IMPACT and assigned it to a COMPONENT (see example at Table 4). The full sheets are shown at Appendix IV.

Table 4: Excel Sheet Showing Sample of Data Grouped by Component

COMPONENT	ISSUES	IMPACT
Cultural practice	Early settler history	Personal security
Cultural practice	Loss of transfer of cultural practices and traditional knowledge	Management decisions based purely on science
Cultural practice	Traditional knowledge	Not fully incorporating it into management arrangements
Cultural practice	Grief and loss	Weaken social structures

Each data group linked to a COMPONENT was then placed onto a single Excel Sheet and the process was then repeated allocating each ISSUE to a SUB-COMPONENT within the COMPONENT. The process utilised was for the Project Team members to quickly provide thoughts on each issue and to then refine the SUB COMPONENTS based on combined views. Initially the process was very arduous and time consuming but as the Team gained some experience many of the components could be covered in a very short time. This meant each

COMPONENT had a number of SUB-COMPONENTS linked to ISSUES and IMPACTS (see example at Table 5). The full sheets are shown at Appendix V.

The data from this process was then used to construct and populate the Component Trees for Day 2. The Component Tree is shown in Figure 3. Each of the Sub-Components was also expanded into component trees.

An example showing Component Tree and Sub Component Tree for Cultural Practices (based on information from Table 5) is shown at Figure 4.

Table 5: Excel Sheet Showing Sample of Data Grouped by Component and Sub-Component

COMPONENT	SUB-COMPONENT	ISSUES	IMPACT
Cultural practice	Social structure	Early settler history	Personal security
Cultural practice	TFK	Loss of transfer of cultural practices and traditional knowledge	Management decisions based purely on science
Cultural practice	TFK	Traditional knowledge	Not fully incorporating it into management arrangements
Cultural practice	Social structure	Grief and loss	Weaken social structures



Figure 3: Indigenous Component Tree for Use on Day 2

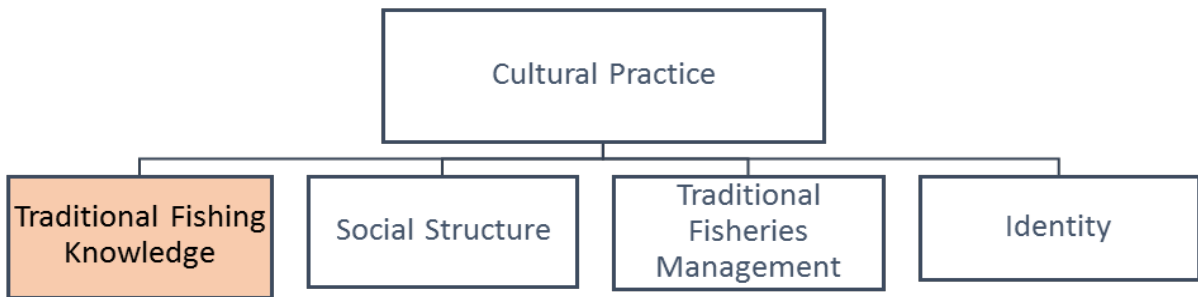


Figure 4: Example Component Tree showing Component and Sub Component for Use on Day 2

Key Learning – Out of Session Work Day 1

- The COMPONENT and SUB-COMPONENT allocation process maybe enhanced by having generic identifiers to use (possibly linking with the IRG RD&E Priority Area or building on the experience from each case study)
- Having multiple views and data sources enhances the component allocation process

5.1 WORKSHOP PROCESSES – DAY 2

Day 2 focused on undertaking the risk assessments for each of the component trees identified on Day 1, as shown in Figure 3.

The aim of day two was to assess and complete a risk impact and likelihood table based on five likelihood levels and five impact levels, i.e.; 1 = low likelihood or risk and 5 = high likelihood or impact. The terms were changed slightly from that outlined by Fletcher to terms that are more user friendly for participants who are very unfamiliar with the process (column 1, Table 6).

In addition, each impact was allocated a risk statement to clearly describe to participants how they are to be used to describe the severity, which ranged from no loss through to total loss (see Table 7). This information was on display throughout Day 2 for continually reference.

Table 6: Risk Impact and Likelihood Table – Day 2 Moruya

Impact/Risk	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					
Major					
Extreme					

Table 7: Objective statements to describe severity of each impact

Consequence	Statement/Description
No Impact	No loss of right no restriction on country
No Big deal	No loss of right some minor restriction on country (<5% area) or competing interests from other users taking the fish
An issue	Some loss of rights/ some loss of access to country (20%)
Major	Large impact on rights/ loss of access to most of country (<50%)
Extreme	Lost rights lost access

The participants then workshopped the risk profile for each of the Sub Components. Impact and risk levels were recorded based on the issues (and impacts) as shown in the example in Table 5.

This process was facilitated by Stephan and the details recorded live on a screen by Stan so that all participants could easily see the Component, Sub Component, Issues that were being discussed and the agreed rating.

An example of what participants saw on the live screen is shown in Figure 5, noting the agreed outcomes was an extreme Impact (5) and Certainty (5) that it would happen, therefore a rating of 5 x 5.

Notes were also taken by Chris and Haley to provide additional justification information for each risk/impact profile (see Appendix VI).

This process was repeated 23 times to cover each of the Sub Components shown in Figure 3. The completed Risk Assessments are shown in Appendix VII.

Figure 5: Example of Live Screen Used During Risk Assessment Process – Day 2

Key Learning – Workshop Processes

- Participants should have been asked how they felt the workshop went, what worked well and what could be improved – this may need to be followed up out of session but formal feedback at the time should be gathered.
-

5.2 OUT OF SESSION PROJECT TEAM WORK – DAY 2

The session was reviewed by Bryan who provided information on possible ways to improve the process. This included the suggestion to develop a generic (but living) template that can be populated and included a Question Master List. Bryan was to send out a draft excel sheet.

Success hinges on being able to come up with a detailed list of questions that target all the risks associated with a particular value (component/sub component). I am confident we can do this as a team in reasonable time

Appendix I: Abalone Fishery Description and Workshop Info Brief

DESCRIPTION OF THE NEW SOUTH WALES ABALONE FISHERY

BACKGROUND

Commercial fishing for abalone began in the early 1960s with annual catch rates of between 200 and 400 tonnes, peaking at 1,200 tonnes in 1971. However, by 1977 a combination of heavy fishing and bad storms caused catches to fall to around 300 tonnes. Concern about the state of the resource led a 1979 Parliamentary inquiry to recommend that the abalone and sea urchin fishery became a restricted entry fishery. This occurred in the following year when only 59 divers were granted access to the restricted fishery - down from more than 100 divers in 1979. The number of divers has been reduced progressively to address excessive fishing effort and increase viability. Individual catch quotas were introduced in 1989. In 2005 the recreational bag limit was decreased from 10 to 2.

AREA

Operators in the NSW Abalone Fishery are permitted to fish in NSW and Commonwealth waters off the NSW coast. Fishing effort is concentrated in coastal waters (within 12 nautical miles of the coast or baseline) at depths between 20 and 40 metres. The main area of operation of the fishery is on fringing reefs close to shore between Wreck Bay, near Ulladulla, and the Victorian border. The fishery is divided into six management regions and reporting zones.

There are six marine parks and aquatic reserves in NSW state waters in which harvest of abalone is not permitted.

TARGET SPECIES

Blacklip abalone (*Haliotis rubra*). Blacklip abalone are large marine molluscs that inhabit rocky reef systems from northern NSW to Rottnest Island in Western Australia. Blacklip abalone can reach a size of 20 centimetres and live for more than 20 years. They mature at approximately nine to ten centimetres (three to six years of age). Growth is highly variable and is dependent on environmental conditions (Day and Fleming 1992). Movement of adult abalone is limited, resulting in highly structured stocks.

Abalone species generally are at risk of overexploitation and localised depletion due to their limited dispersal abilities, patchy distribution, high value and ease of collection.

FISHERY STATUS

Blacklip abalone stocks are considered overfished (Rowling *et al*/2010).

The total allowable commercial catch for the fishery is reviewed annually and the NSW Department of Primary Industries considers that increases in catch rates since 2005/06 indicate stock rebuilding.

GEAR

Commercial divers collect abalone using hand collection methods. Fishers are permitted to use surface air or compressed air supply (hookah system) from small, high-speed boats. An abalone iron, a hand held chisel like device, is used to pry the abalone from rocks.

Recreational harvesting is permitted using similar diving equipment including self-contained underwater breathing apparatus (SCUBA) and snorkelling equipment. However, use of compressed air by recreational abalone fishers is not permitted. Recreational fishers use the same type of hand held abalone iron as that used by commercial harvesters.

SEASON

Year round - the commercial fishing year for the purposes of total allowable commercial catch limits and licences is from 1 July to 30 June.

COMMERCIAL HARVEST

The Total Allowable Catch for 2016 is set at 130t for the commercial sector. There are 50 Abalone Licence holders in NSW, only around 35 licensees are eligible for an endorsement to harvest (i.e. they hold minimum amount of shares to allow fishing to occur).

MANAGEMENT ARRANGEMENTS

The fishery is managed under the:

NSW Fisheries Management Act 1994;

NSW Fisheries Management (General) Regulation 2010;

NSW Fisheries Management (Supporting Plan) Regulation 2006; and

NSW Fisheries Management (Abalone Share Management Plan) 2000.

The use of global positioning system (GPS) data loggers has recently been implemented in the fishery to allow catch monitoring and management at a finer spatial scale. Management controls currently in place for the fishery include:

Input controls

Limited entry (limited to shareholders in the fishery who hold a number of shares greater than the prescribed minimum shareholding);

- area closures; and
- gear restrictions.

Output controls

Quota management with a total allowable commercial catch allocated according to shareholding. A Total Allowable Catch Setting and Review Committee annually reviews and makes recommendations about the total allowable commercial catch;

- regional catch limits introduced from the 2009/10 fishing season onwards;
- minimum size limits for each management zone, which reflect spatial variation in growth rates of abalone, apply to commercial fishing; and
- a recreational in-possession limit of two abalone per person (decreased from ten per person) and a state wide minimum size limit.

EXPORT

The majority of product is exported to south-east Asia.

All information gathered from the NSW Department of Primary Industry at <http://www.dpi.nsw.gov.au> in 2016

WORKSHOP INFORMATION BRIEF

BACKGROUND

The workshop will focus on assessing the impact of the Abalone Commercial Fishery on Indigenous Cultural Fishers. We will assess this by conducting a risk assessment on your traditional values. As a group of cultural fishers from the area you will decide what your core objectives are when accessing Abalone and we will work with you to assess the level of risk the Abalone commercial fishery is putting on your values. This is part of a much larger process called an Ecological Sustainable Development Risk Management Assessment. In this process all stakeholders and the environment is assessed in any review or establishment of a Fisheries Management Plan. These assessments have been happening since 2002 though the only element missing Nationally is the impact on the Aboriginal Community and Aboriginal Cultural Fishery. As a result within this structure there has been no Indigenous voice, mechanism to engage or mitigation of impacts. This is what we would like to change! With your participation

WHY DO YOU CONDUCT A RISK ASSESSMENT

A risk based approach that takes a more comprehensive approach to management. It should deal with all the ecological, social & economic implications of the management of fishing activities. It should cover direct and indirect impacts of these activities plus external impacts on the fishery. It should also cover HOW the fishery is managed.

*What impacts does the fishery have on target and other captured species and the ecosystem?
What impacts do the fishing activities have on the resources, activities, values important to others?*

What are the economic/social benefits and costs of the fishery and related activities to fishers and the society as a whole?

What other activities and issues beyond the control of your fishery management plan affect you?

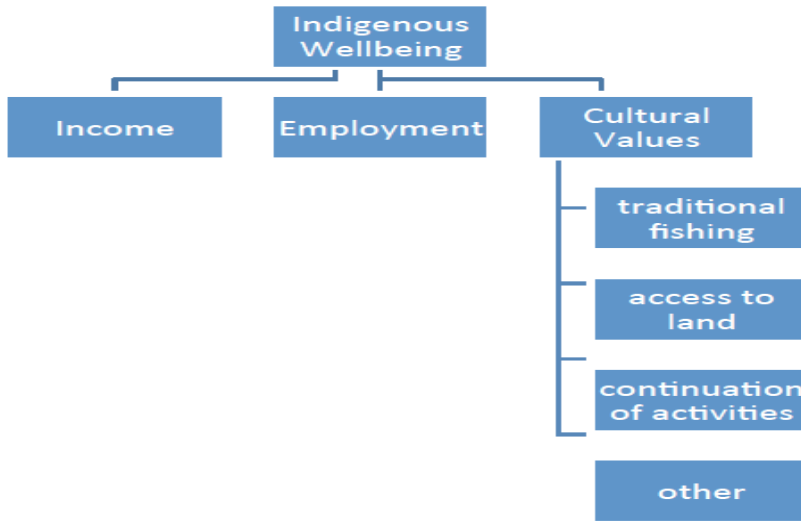
WHY IS IT IMPORTANT FOR ABORIGINAL PEOPLE TO BE INVOLVED IN THIS PROCESS

In March 2000 an Ecological Sustainable Development reporting framework was developed for all commercial fisheries only addressing the ecological elements (i.e. what level of risk does the commercial fishery place on the environment/fish stocks). In 2014 questions on the economic and social elements were developed and used by international agencies. This means that in most fisheries in Australia whenever a fishery is reviewed all stakeholders and the environment undergoes a risk assessment to ensure the impacts of the fisheries are mitigated and properly managed. This gives a voice and measures to ensure accountability of the fishery to all involved. The only gap in this process nationally is Aboriginal communities have not been engaged. There is however a specified section in the framework that indicates that both Cultural fishers and Aboriginal Communities are key stakeholders in all fisheries and therefore should be apart of all assessments. By being involved in this workshop you are contributing to developing an appropriate methodology to undertake this process. This is an opportunity to prove that these assessments can be done in Aboriginal Communities and how essential it is for fisheries to hear your voice and to manage the impacts on your values.

WORKSHOP SCOPE AND VALUES

The scope of this 2day workshop is to focus on the 'Impact of the NSW Abalone Fishery on Aboriginal fishers and community in the waters off Nowra in the north to Narooma in the

south'. We will work with you to generate around three core objectives for the group. What are the group's values and objectives that you want to achieve – what would success look like? Identify specific values/issues that may be affected by the commercial fishery. The values will be presented in a component tree, see an example in the diagram below.



Once the group is content with the value component tree for each objective, as a group you will start to assess the level of impact on your values. We will assess the levels of risk for each issue using the Consequence x Likelihood method as seen in the graphic below. For each issue the group will need to outline why the specific levels of risk were chosen. This assessment needs to determine whether you are 'happy' or not that the fishery is and will generate acceptable outcomes for each of the relevant objectives.

RISK ASSESSMENT

		Consequence Level			
		Minor	Moderate	Major	Extreme
Likelihood		1	2	3	4
Remote	1	1	2	3	4
Unlikely	2	2	4	6	8
Possible	3	3	6	9	12
Likely	4	4	8	12	16

Note: In the original image, a blue arrow points down from the 'Moderate' column to the 'Possible' row, and another blue arrow points right from the 'Likely' row to the 'Moderate' column. The cell containing the value '8' (at the intersection of 'Likely' and 'Moderate') is circled in blue.

We will go through this process step by step at the start of the workshop in detail so it becomes very straightforward.



Two day Risk Assessment Workshop NSW – South Coast

FRDC Project 2014 - 233

'Improving access for Indigenous Australians to and involvement in the use and management of Australia's fisheries resources'

Agenda

Two day Risk Assessment Workshop called by: Hayley Egan; Stephan Schnierer; Stan Lui & Chris Calogeras (Project Team)

Type of Meeting: Ecological Sustainable Development - Risk Assessment 2 day Workshop

Date and Time: Monday the 23rd and Tuesday the 24th of May 2016, 9:00am to 4:00pm both days

Venue: Luhana Motel, 82 Princess Highway Moruya. Meeting Room is next door to the motel reception

Facilitator: Hayley, Stephan, Chris and Stan

Time Keeper: Chris or Stan

Note Taker: Project team members. Please note this meeting will be recorded by Dictaphone and if permitted by participants video camera. This is for internal use only and will not be released. There will be a lot covered over the two days and this is just to ensure our team does not miss any important detail.

Morning tea, Lunch and Afternoon Tea will be provided on both days

Day 1 – Monday 23rd of May 2016 at Luhana Motel Moruya

9:00am – Introduction to the research team and participants

9:30am – Purpose of the Workshop

10:15am – Develop group objectives

10:45am – Morning Tea

11:00am – Agree on values

11:45am – Start assessing risk to values that relate to the groups core objectives

1:00pm – Lunch

2:00pm – Continue with the risk assessment

3:00pm – Afternoon Tea

3:15pm – Continue with the Risk assessment

4:00 – Finish for the day

Day 2 – Tuesday 24th of May 2016 at Luhana Motel Moruya

9:00am – Day 1 recap

9:30am – Continue with the risk assessment

10:45am – Morning Tea

11:00am – Continue with the risk assessment

1:00pm – Lunch

2:00pm – Continue with the risk assessment

2:45pm – Afternoon Tea

3:00pm – Discuss possible solutions

3:45pm – Wrap up and feedback

4:00pm – Finish

DRAFT

Appendix II: Excel Sheet Record of Each Issue and Impact on Cultural Fishing

ISSUES	IMPACT
Block Licence	Identification of crew
Abalone Association	They have influence over management agency and are inwardly focused.
Bag limits	Economic and food security and well being
Early settler history	Personal security
Merramerang	Sending people to Woollies and Coles. Need to eat where the food has been harvested
Economic benefits	People on benefits. Fines. Goal. Health impact.
Prison sentences	Proving for the family
Exercise	Negative health impact
Sense of belonging	Loss of culture and identify in community
Mental health	Impact on health system. Family resources. Drug addiction
Aquaculture / farming	Rehabilitation of those in prison
Management arrangements	Stopping cultural fishing
European introduced boundaries	closed areas of harvest
Trading / barter	evolution of trading not keeping up with progress
Community governance	Information not being passed on to politicians. Some information not clearly communicated
Shut out of the commercial fishery	
Government influenced by voters who are not connected to the country or the issues	
Politicians being influenced by industry players with lots of dollars	
No start-up opportunity	
Fishery managers not recognising the living culture of the area.	
Fines imposed are unreasonable	People who are fined need to go back to fish to pay for the fine. At risk of being fined again. Creates a vicious circle
Native Title rights	Determinations not delivering outcomes for TO. Govt using it to their advantage
No traditional land management	Loss of contribution to the management of country
Loss of transfer of cultural practices and traditional knowledge	Management decisions based purely on science
Over-harvest	
Compliance judging people for their family connection	Creating blockages with red tape
No incentive to join the fishing industry	Alcoholism, drugs, no assets, can't get start-up financing
Undertaking fishing courses	Does not lead to employment in the industry
National Parks	Limited access to traditional fishing areas. Marine parks have been placed in areas where TO have historically fished.
Oyster farmers	farms have an environmental impact on traditional fishing area's and species
Land and sea managers	No employment opportunities for the younger generation. Forced into unsuitable employment.

ISSUES	IMPACT
Commercial industry	Not actively providing opportunities for the younger generation to join the industry.
Traditional knowledge	Not fully incorporating it into management arrangements
Management consultation/engagement process	Making decisions that negatively impact TO's
Post harvest processing	Processing occurring in another location without any benefit to the local TO's.
Management costs	How much does it actually cost to do the science and why are TO's participating
Increase harvest quota by 2%. Needs to be scientific based.	Positively increase economic situation of TO's dramatically
TAC	Cultural catch not included?
Old community commercial licences.	Need the licenses re-issued.
Cultural gathering	
Understanding rights under the Native Title Act	Fisheries take advantage.
Respect	Build better relationship
Fear of prosecution	Loss of culture and impact on values
Regulations	Providing for family during time of grieving.
Identity and recognition of connection to country	
Building relationships	Strengthen governance
Grief and loss	Weaken social structures

Appendix III: Summary of Issues Raised and Justifications - Day 1 Moruya

- Can't have people who they want to work the licence as they don't have paperwork or effort controls and limitations
- Inconsistent laws and application across sectors
- Poor information transfer to provide answers
- People have a history of trading from first fleet and they are now excluded
- Marie park rules don't comply with cultural practices
- Economic benefits – fish farms, jobs needed, lift self-esteem as people love working on water
- Connections to country – camping, stories, fishing
- Access restrictions due to white rules – cant hunt and fish
- Governance built into community (self-management through spiritual)
- Excluded from existing management arrangements
- Lack of support for giving aboriginal back their rights
- Indigenous development fishery – no start up opportunities
- People getting fined for fishing and then go fishing to pay fines
- Native title – not everyone has it and it is non exclusive and still subject to prosecution under act
- Aboriginal management practices links to well being
- Share stories and pass on rules and regulations
- Use of barter to maintain food security and cultural integrity
- No access to security for financial access
- Industry structure doesn't meet community needs and too much red tape
- We are fishers – it defines who they are as salt water fisherman (not truck drivers)
- They own the cultural fishery
- Need to get support from other sectors to get people to sea
- Current management is insulting to traditional owner/managers - get own traditional management plan
- Bring in and get respect for traditional knowledge
- Young ones need an opportunity
- Engagement processes aren't working at the moment
- Need supply chain opportunity
- Current commercial industry does not provide economic benefit to community
- Quota ownership dos not reflect the fishing community – investor focussed
- Unclear what the benefit sharing is
- Education v compliance to ensure sustainability – new regs stop activity but lead to more problems or worse
- Licence fees paid by commercial fishers is used for cost recovery
- Need to work collaborate with researchers/scientists
- History when aboriginal licences (13) were handed back to Govt instead of to Abl people
- Poor governance and need new processes agreed by community to deal with ownership (see TSI)
- Science isn't adaptive enough and prepared to try something different specifically with Abl people
- Sustainability overrides native title
- Build relationships with compliance each year
- People don't believe they are being taught values shouldn't have to have permits to do cultural practices
- Currently top down management approach rather than the bottom up approach and governance

- What legislation is relevant – native title v state legislation. Note current situation where summons now have 2 lines noting native title defence – instead of a better approach to develop a Govt agreement
- Relationships are toxic and needs repair
- Benefit of ILUA v native title determination
- Lack of education on aboriginal history
- Young people not being taught values as elders worried as fishing practices put them in jail
- Need to better understand real values
- Little trickle down of money through bureaucracy
- How do you provide 'evidence' that people are Aboriginal and can therefore fish in areas
- Would an aboriginal liaison officer help
- Police check people to embarrass them
- Need to build relationships to get people to understand cultural values
- Develop community agreed governance protocols
- Grief, loss and social structure are connected to the resource – e.g. people catch food for funerals and to also feed people who have come to funerals

Appendix IV: Excel Sheet Showing Data Grouped by Component

COMPONENT	ISSUES	IMPACT
Cultural practice	Early settler history	Personal security
Cultural practice	Loss of transference of cultural practices and traditional knowledge	Management decisions based purely on science
Cultural practice	Traditional knowlegde	Not fully incorporating it into management arrangements
Cultural practice	Cultural gathering	
Cultural practice	Identity and recognition of connection to country	
Cultural practice	Grief and loss	Weaken social structures
Economic	Economic benefits	People on benefits. Fines. Goal. Health impact.
Economic	Aquaculture / farming	Rehabilitation of those in prison
Economic	Trading / barter	evolution of trading not keeping up with progress
Economic/Management	No start-up opportunity	
Economics	Post harvest processing	Processing occuring in another location without any benefit to the local TO's.
Management	Block License	Identification of crew
Management	Bag limits	Economic and food security and well being
Management	Merramerang	Sending people to Woollies and Coles. Need to eat where the food has been harvested
Management	Prison sentences	Proving for the family
Management	Management arrangements	Stopping cultural fishing
Management	European introduced boundaries	closed areas of harvest
Management	Community governance	Information not being passed on to politicians. Some information not clearly communicated
Management	Shut out of the commercial fishery	
Management	Fines imposed are unreasonable	People who are fined need to go back to fish to pay for the fine. At risk of being fined again. Creates a vicious circle
Management	Native Title rights	Determinations not delivering outcomes for TO. Gov using it to their advantage
Management	No traditional land management	Loss of contribution to the management of country
Management	Over-harvest	
Management	No incentive to join the fishing industry	Alcoholism, drugs, no assets, can't get start-up finacing
Management	National Parks	Limited access to tradtional fishing area's. Marine parks have been placed in area's where TO have historically fished.
Management	Land and sea managers	No employment opportunities for the younger generation. Forced into unsuitable employment.
Management	Management consultation/engagement process	Making decisions that negatively impact TO's
Management	TAC	Cultural catch not included?
Management	Old community commercial licences.	Need the licenses re-issued.
Management	Understanding rights under the Native Title Act	Fisheries take advantage.
Management	Fear of prosecutuion	Loss of culture and impact on values
Management	Regulations	Providing for family during time of grieving.
Management	Stocks not recoverign after translocation	
Relationships	Abalone Association	They have influence over management agency and are inwardly focused.
Relationships	Government influenced by voters who are not connected to the country or the issues	
Relationships	Politicians being influenced by industry players with lots of dollars	
Relationships	Fishery managers not recognising the living culture of the area.	
Relationships	Compliance judging people for their family connection	Creating blockages with red tape
Relationships	Commercial industry	Not actively providing opportunities for the younger generation to join the industry.
Relationships	Respect	Build better relationship
Relationships	Building relationships	Strengthen governance
Relationships	Agency harrasment	
Wellbeing	Exercise	Negative health impact
Wellbeing	Sense of belonging	Loss of culture and identify in community
Wellbeing	Mental health	Impact on health system. Family resources. Drug addiction

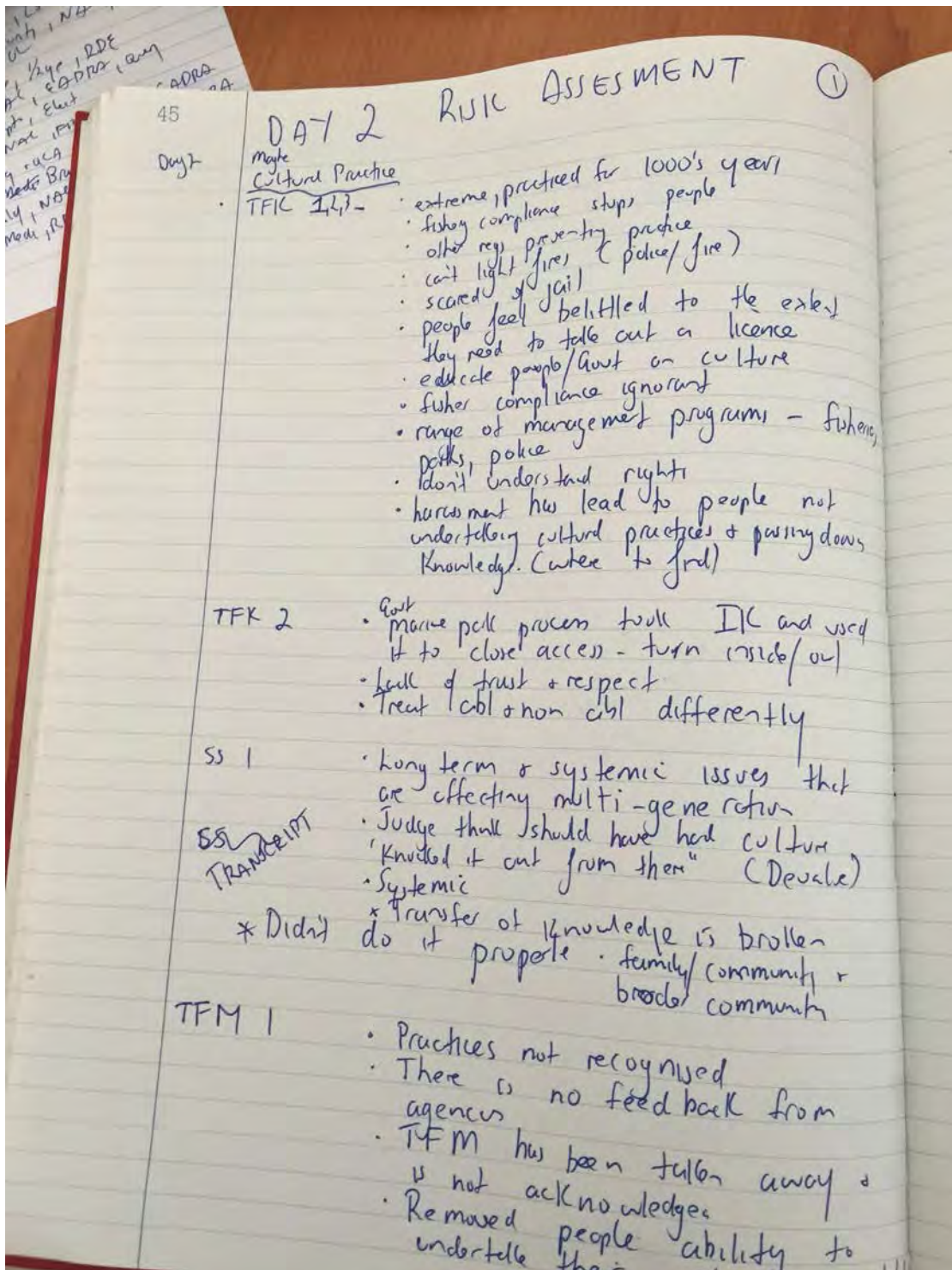
	Undertaking fishing courses	Does not lead to employment in the industry
	Oyster farmers	farms have an enviromental impact on traditona fishing area's and species
	Management costs	How much does it actually costs to do the science and why are TO's participating
	Increase harvest quota by 2%. Needs to be scientific based.	Positively increase economic situation of TO's dramatically
	Law v's Lore	

Appendix V: Excel Sheet Showing Data Grouped by Component and Sub-Component

COMPONENT	SUB-COMPONENT	ISSUES	IMPACT
Cultural practice	Identity	Identity and recognition of connection to	
Cultural practice	Social structure	Early settler history	Personal security
Cultural practice	Social structure	Cultural gathering	
Cultural practice	Social structure	Grief and loss	Weaken social structures
Cultural practice	TFK	Loss of transference of cultural practices and traditional knowledge	Management decisions based purely on science
Cultural practice	TFK	Traditional knowledge	Not fully incorporating it into management arrangements
Cultural practice	TFM	Lack of recognition and acceptance	Undermining Indigenous governance structures
COMPONENT	SUB-COMPONENT	ISSUES	IMPACT
Economic	Benefit sharing	Economic benefits	People on benefits. Fines. Goal. Health impact.
Economic	Cultural economy	Trading / barter	evolution of trading not keeping up with progress
Economic	Development	Aquaculture / farming	Rehabilitation of those in prison
Economic/Management	Development	No start-up opportunity	
Economics	Development	Post harvest processing	Processing occurring in another location without any benefit to the local TO's.
COMPONENT	SUB-COMPONENT	ISSUES	IMPACT
Management	Access	Management arrangements	Stopping cultural fishing
Management	Access	European introduced boundaries	closed areas of harvest
Management	Access	No incentive to join the fishing industry	Alcoholism, drugs, no assets, can't get start-up financing
Management	Access	National Parks	Limited access to traditional fishing area's. Marine parks have been placed in area's where TO have historically fished.
Management	Allocation	Bag limits	Economic and food security and well being
Management	Allocation	Shut out of the commercial fishery	
Management	Allocation	Over-harvest	
Management	Allocation	TAC	Cultural catch not included?
Management	Capacity	Native Title rights	Determinations not delivering outcomes for TO. Gov using it to their advantage
Management	Capacity	Understanding rights under the Native Title Act	Fisheries take advantage.
Management	Communication	Community governance	Information not being passed on to politicians. Some information not clearly communicated
Management	Compliance	Prison sentences	Proving for the family
Management	Compliance	Fines imposed are unreasonable	People who are fined need to go back to fish to pay for the fine. At risk of being fined again. Creates a vicious circle
Management	Compliance	Fear of prosecution	Loss of culture and impact on values
Management	Employment	Land and sea managers	No employment opportunities for the younger generation. Forced into unsuitable employment.
Management	Engagement	No traditional land management	Loss of contribution to the management of country
Management	Engagement	Management consultation/engagement process	Making decisions that negatively impact TO's
Management	Entitlement	Old community commercial licences.	Need the licenses re-issued.
Management	Regulations	Block License	Identification of crew
Management	Regulations	Merramerang	Sending people to Woollies and Coles. Need to eat where the food has been harvested
Management	Regulations	Regulations	Providing for family during time of grieving.
Management	Regulations	Stocks not recoverign after translocation	
COMPONENT	SUB-COMPONENT	ISSUES	IMPACT
Relationships	Broader community	Respect	Build better relationship
Relationships	Government	Government influenced by voters who are not connected to the country or the issues	

Relationships	Government	Fishery managers not recognising the living culture of the area.	
Relationships	Government	Compliance judging people for their family connection	Creating blockages with red tape
Relationships	Government	Agency harrasment	
Relationships	Industry	Abalone Association	They have influence over management agency and are inwardly focused.
Relationships	Industry	Commercial industry	Not actively providing opportunities for the younger generation to join the industry.
Relationships	Internal	Building relationships	Strengthen governance
Relationships	Politics	Politicians being influenced by industry players with lots of dollars	
COMPONENT	SUB-COMPONENT	ISSUES	IMPACT
Wellbeing	Physical	Exercise	Negative health impact
Wellbeing	Spiritual	Sense of belonging	Loss of culture and identify in community
Wellbeing	Mental	Mental health	Impact on health system. Family resources. Drug addiction

Appendix VI: Additional justification information for each risk/impact profile – Day 2



DAY 2 RISK ASSESSMENT (2)

46

Identity 1. Takes identity & dignity & beliefs away

Economic

BS 1

illegal catch \$\$\$

Development 1-3

- No commercial licences or divers
- No structure doesn't allow people to enter/management
- Tickets & quals needed

- multi species operations needed to cover all seasons/species
- current structure do not allow development

Cultural Economy 1

- hard to pass on knowledge
- fear of prosecution (espe children)
- can't use seines & gear
- people spend more on food of can't fish
- unemployment 25% Abl.
- fish related criminal records make it harder to get jobs
- not enough product (or access to it) to
- mental health, stressed, low self esteem - increase well being
- trade/barter is an commercial ongoing cultural shared - fulfills cultural obligations - family/friend hard to put figure on it

Management

1. • generate employment & money into community (net) - it used in abalone buy imports.
- start up own industry & supply chain

2 - museum

3

1. 1.3.01
 1. 1.3.02
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47 Bom
 Marine
 Wine
 Forecast

DAY 2 .RISK ASSEMENT (3)

Compliance 1-3

only
 Its fucking
 Fishing - go
 shouldnt go to
 jail!!

- Breaks up family - who looks after records
- fines for people with no wages - can't get back to life style
- Can't pay fines - can't get licence or car rego
- Family have to go to prison to see family
- Family health issues - stress
- labelled as thiefs, poachers, repeals

Too many
 Sub categories

Communication 1.

Need self regulation - cultural

MAJOR

Engagement 1-2

• Don't understand
 Cbl people

- No voice in MAC - abalone
- Rely on hard Councils for advice
- People don't respect an alternative world view or understand aboriginal people
- resources inadequate
- timing

No consultation with community

- Process of MAC not achieving
- No resources for members to consult with community

- capacity = indigenous
- only one person appointed & no one to bounce it off - can't speak on behalf of others
- MP had a good system of liaison officer - Fish should do the same
- Cbl employment in Dept
- Play the numbers game
- ESD process is providing background that members can use
- AFAC, agenda driven by fisheries
- Poor feedback from reps. who are not in there

DAY 3 RISK ASSESSMENT

Access 1-4

- No Abi commercial licence
- Unable to buy + cost too much
- Nuke the other 13 licences given back
- Parole conditions exclude people from being within XXm of the sea

Employment 1

- Employment numbers doesn't reflect the Abi population
- No Abi pop

Entitlements 1

- slight

Capacity 1

- Human officer
- Building skills + capacity
- Need support for reps + community
- Need 2 way capacity
- Relationship building
- Understanding agency management
- Communication methods is not appropriate - ie web based deeded dense info

Allocation 1-4

- inadequate for needs
- no involvement

Relationships

Industry 1-2

- No relationship

Govt

- No relationship

Politicians

- No relationship

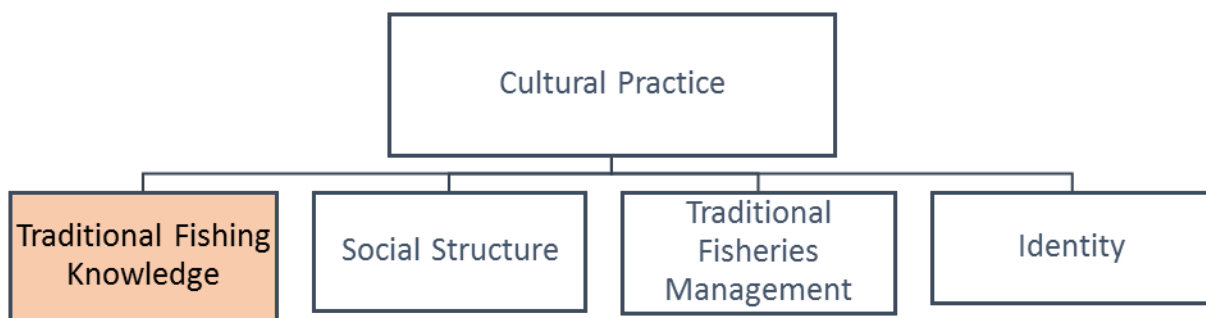
Broader Community

- Community see Abi as criminal
- Media problem

Internet

- are discussing it
- see the problem
- Poor

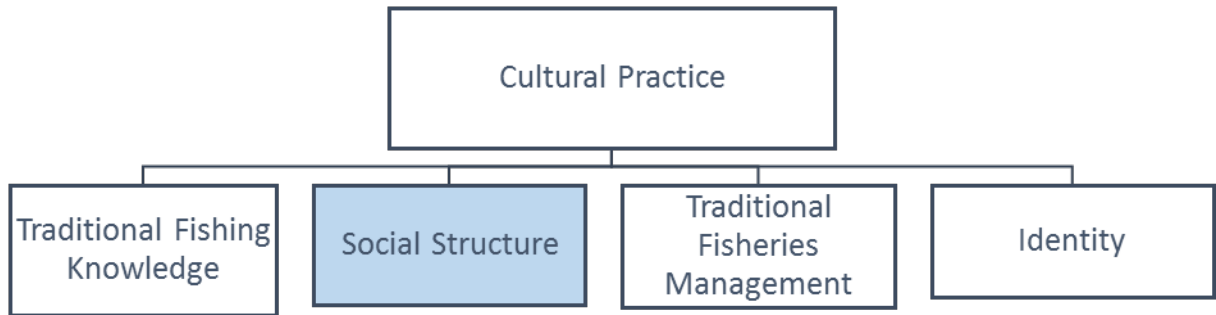
Appendix VI: Completed Risk Assessments Moruya



What are the risks (potential impacts) on TRADITIONAL KNOWLEDGE?

1. Loss of transfer of cultural practices and traditional knowledge
 Everything is extreme. Fisheries and police officers are actively stopping cultural practice including stopping lighting of fires to cook the food on the river bank. Regulations do not make allowances for the cultural practices. People have stopped diving because of compliance harassment this means they are not passing on their knowledge. When they pass away this knowledge is gone with them.
2. Acknowledgement of traditional knowledge
 In the past national parks have consulted with TO and found out where they are going. These were then turned into sanctuary zones where TO's can no longer go. This has caused lots of suspicion and friction with any future consultations around traditional knowledge. This seems to be a recurring theme with lots of anecdotal examples provided.
3. Lack of incorporation on Traditional Knowledge

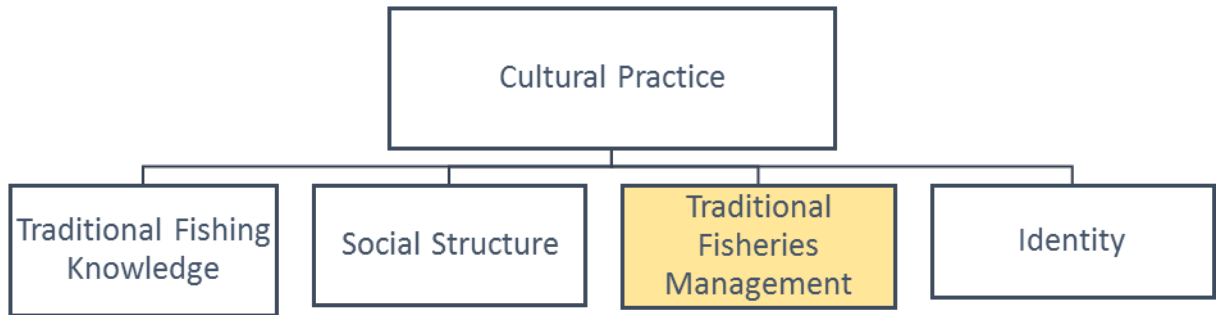
	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					
Major					
Extreme					5*5



What are the risks (potential impacts) on SOCIAL STRUCTURE?

1. Early settler history (your personal security)
2. Cultural gathering
3. Grief and Loss (weaken social structures)

	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					
Major					
Extreme					5*5

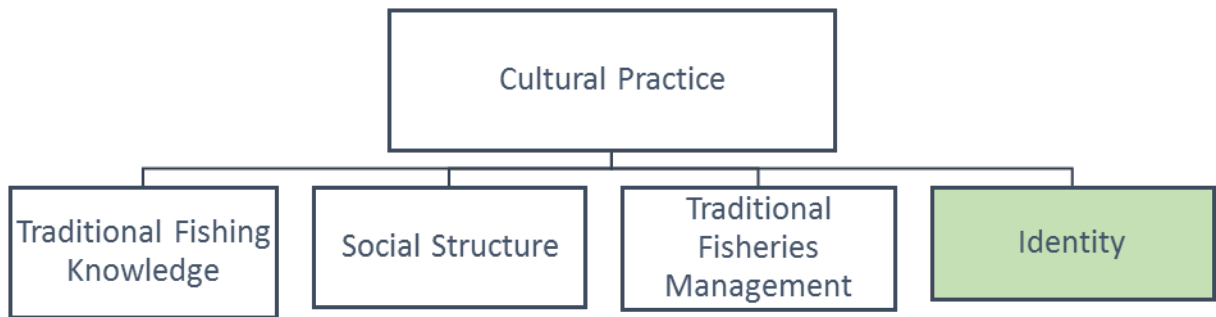


What are the risks (potential impacts) on TRADITIONAL FISHERIES MANAGEMENT?

1. Lack of recognition and acceptance

The fisheries manage the fishery completely. There is no recognition or inclusion of TFK in any management arrangements.

	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					
Major					
Extreme					5*5

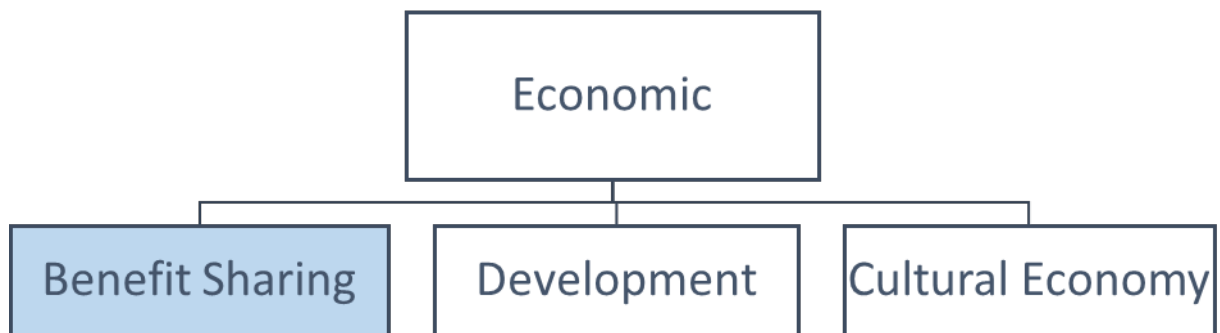


What are the risks (potential impacts) on IDENTITY?

1. Identity and recognition of connection to country

Seems that there is a deliberate action to delete or remove TO's from their culture and identity.

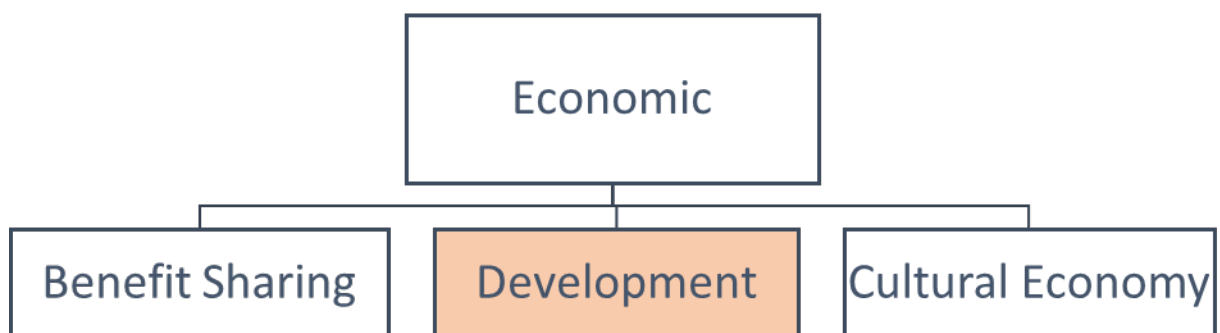
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No impact					
No big deal					
An issue					
Major					
Extreme					5*5



What are the risks (potential impacts) on BENEFIT SHARING:

1. Economic benefits – people on benefits, fines, gaol, health impact
No Indigenous people have abalone licences. They can only take for cultural purposes. Any selling/barter/trade of abalone is considered illegal

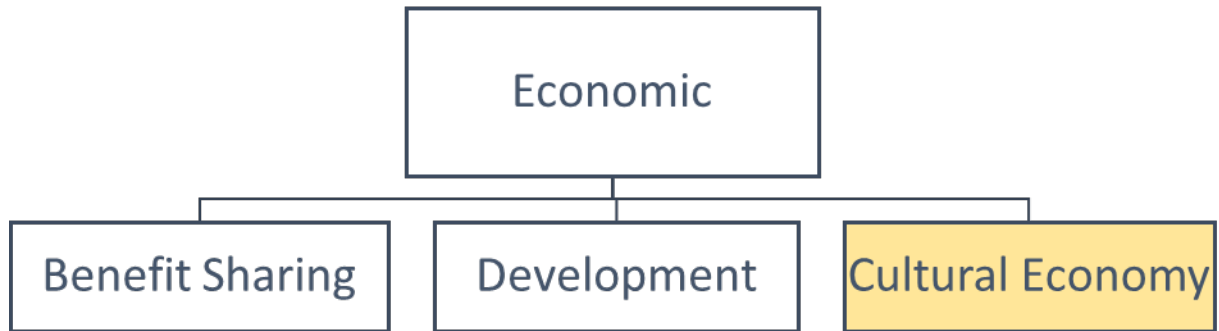
	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					
Major					
Extreme					5*5



What are the risks (potential impacts) on DEVELOPMENT:

1. Aquaculture/farming – to re-habilitate those in prison and to create positive culturally appropriate employment
2. No start-up opportunity
3. Post harvest processing - Processing occurring in another location without any benefit to the local TO's.

	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					
Major					
Extreme					5*5



What are the risks (potential impacts) on the CULTURAL ECONOMY:

1. Trading/Barter – evolution of trading not keeping up with progress
 - a. Traditional cultural practice not recognised trade or bartered
 - b. Poor families need to send more money if they can't fish. Fisheries convictions impeded getting employment. Fear that their children will be prosecuted. Can't use/access cultural sites. Traditional trade and barter is considered selling which is illegal under the fisheries regulations without a licence.

	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					
Major					
Extreme					5*5



REGULATION

What are the risks (potential impacts) of REGULATIONS:

1. Block licenses – identification of crew - licences 13 for Aboriginal people (John’s example benefit)
2. Murramarang – restricting practices to an area
The sign states one thing but compliance does something else. The site is only restricted to a small area. The midden sites are much bigger area.
3. Regulations – providing for family in grieving times
4. Stocks not recovering after translocation

	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					
Major					
Extreme					5*5



COMPLIANCE

What are the risks (potential impacts) of COMPLIANCE:

1. Prison sentences
Families visiting prisoners have to go through and experience the process. People are being labelled poachers, rapists of the sea or thieves for doing a cultural activity.
2. Fines imposed are unreasonable
3. Fear of prosecution

	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					
Major					
Extreme					5*5



COMMUNICATION

What are the risks (potential impacts) of COMMUNICATION:

1. Community Governance - Information not being passed on to politicians. Some information not clearly communicated
Compliance interaction with the TO's are huge compared to other states and regions. TO's have started an association which has been operating for many years without any government funding.

	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					
Major					
Extreme					5*5



ENGAGEMENT

What are the risks (potential impacts) of poor ENGAGEMENT:

1. No traditional land management – loss of contribution to the management of country
2. Management consultation/engagement process – making decisions that negatively impact TO's – MAC's, AFAC
TO's are not involved in the MAC's. Feel that the positions available on the MAC's are tokenistic. The current fisheries view on how to regulate traditional fishing does not suit the TO's. TO's are seek dialogue to develop a regulation process that works better.
Suggestion to create liaison officers within the Fisheries Dept.

	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					
Major					
Extreme					5*5



ACCESS

What are the risks (potential impacts) of poor ACCESS:

1. Management arrangements stopping cultural fishing
 13 traditional licence should be re-issued
 Prosecutions are imposed with area restrictions. Seen as a way to get the prosecuted into the custodial cycle.
2. European introduced boundaries
3. No incentive to join the fishing industry
4. National Parks

	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					
Major					
Extreme					5*5



EMPLOYMENT

What are the risks (potential impacts) to EMPLOYMENT:

1. Land and sea managers – no employment opportunities for the younger generation.
 Forced into unsuitable employment
 Department may not be taking seriously the need to have certain percentage of Indigenous employment.
 An Indigenous employee may feel intimidated being the minority.

	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					
Major					
Extreme					5*5



ENTITLEMENT

What are the risks (potential impacts) to ENTITLEMENT:

1. Old community commercial licences

	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					
Major					
Extreme					



CAPACITY

What are the risks (potential impacts) to CAPACITY:

1. Understanding rights under the Native Title Act/Land Rights/National/International/Legislation – fisheries take advantage.
Need liaison officers in Departments to assist people understand their rights.
2. Support and information for representatives and community
3. Understanding of agency fisheries management
4. Both Ways

	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					
Major					
Extreme					5*5

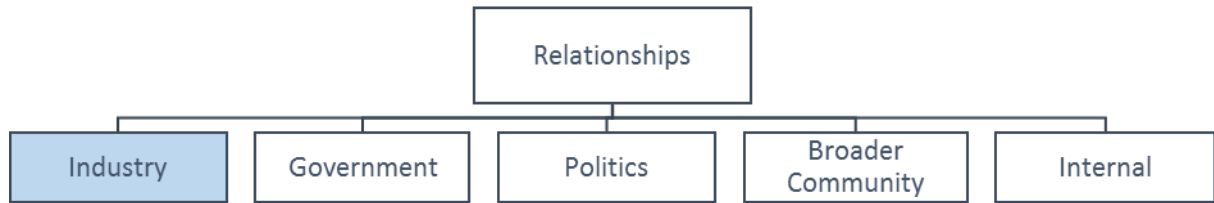


ALLOCATION

What are the risks (potential impacts) of ALLOCATION:

1. Bag Limits – economic and food security and wellbeing
2. Shut out of the commercial fishery
3. Over-harvest
4. Total Allowable Catch – cultural catch not included

	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					
Major					
Extreme					5*5

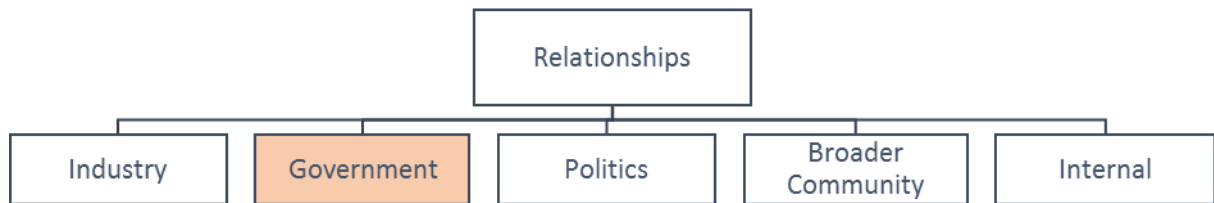


INDUSTRY

What are the risks (potential impacts) of INDUSTRY:

1. Abalone Association – have influence over management and inwardly focused
2. Commercial Industry – not actively providing opportunities for the younger generations to join the industry

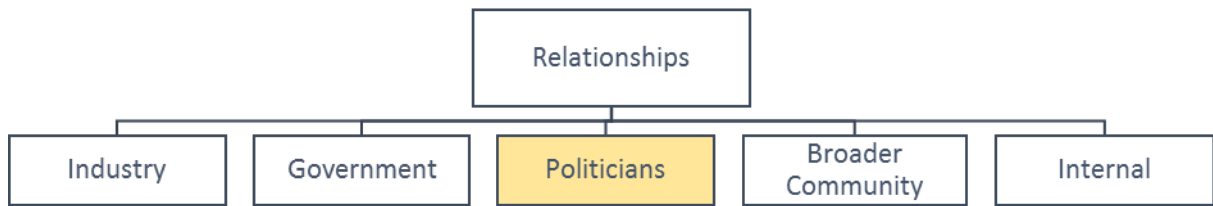
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No impact					
No big deal					
An issue					
Major					
Extreme					5*5



What are the risks (potential impacts) of GOVERNMENT:

1. Government influenced by voters who are not connected to the country or the issues
2. Fishery managers not recognising the living culture of the area.
3. Compliance judging people for their family connection
4. Agency harassment

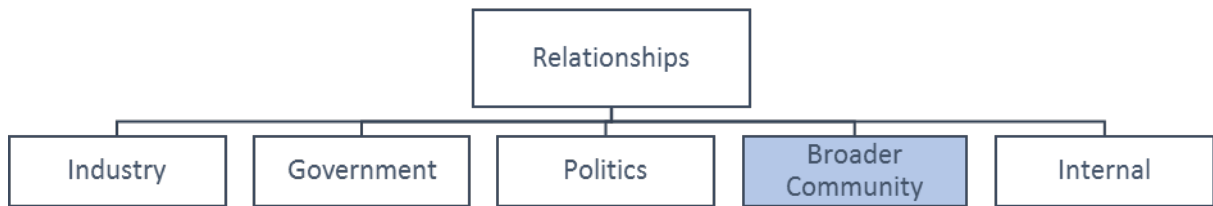
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An issue					
Major					
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What are the risks (potential impacts) of POLITICIANS:

1. Politicians being influenced by industry players with lots of dollars

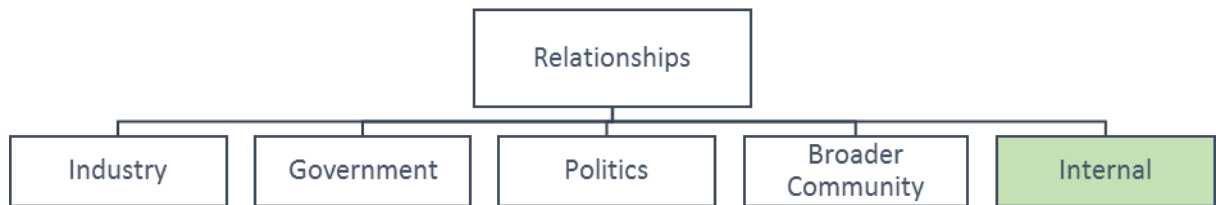
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What are the risks (potential impacts) of BROADER COMMUNITY:

1. Respect – build better relationships
Community members paid a reward for reporting indigenous fishers suspected for illegal fishing activities.

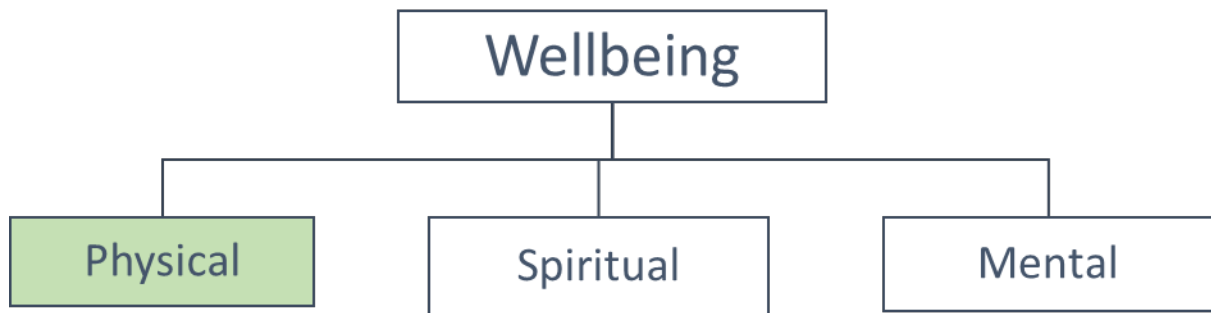
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An issue					
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Extreme					5*5



What are the risks (potential impacts) on INTERNAL RELATIONSHIPS:

1. Building relationships – strengthening governance
 - a. Community is engaging

	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue			3*3		
Major					
Extreme					



What are the risks (potential impacts) on PHYSICAL WELLBEING:

1. Exercise – negative health impact

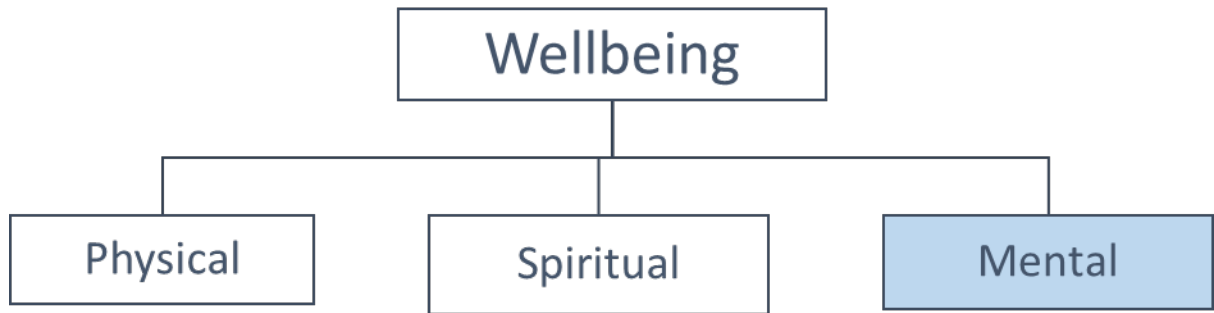
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No big deal					
An issue					
Major					
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What are the risks (potential impacts) on SPIRITUAL WELLBEING:

1. Sense of belonging - Loss of culture and identity in community

	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					
Major					
Extreme					5*5



What are the risks (potential impacts) on MENTAL WELLBEING:

1. Impact on health system. Family resources. Drug addiction

	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					
Major					
Extreme					5*5

Appendix 2.2 Workshop Report: North Stradbroke Island, Qld

FRDC Project 2014/233 - Improving access for Indigenous Australians to and involvement in the use and management of Australia's fisheries resources

Final Report

Outcomes of Case Study Workshop 2

North Stradbroke Island, Qld

June 2016



Prepared by Project Group

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Hayley Egan

Stan Lui

Chris Calogeras

Warning for Aboriginal and Torres Strait Islanders

Please be aware that this report may contain the names or images of deceased people. C-AID Consultants strives to treat Indigenous culture and beliefs with respect. We acknowledge that to some communities it can be distressing and offensive to show images of people who are deceased.

Terms and Definitions

Term	Definition
Component	A major area of relevance to fisheries with respect to ESD
Consequence	Is the importance or relevance and the level(s) of impact(s) of something happening
Ecologically Sustainable Development	Common definition– ‘Using, conserving and enhancing the community’s resources so that ecological processes, on which life depends, are maintained, and the total quality of life, now and in the future, can be increased’
Generic Component Tree	Major areas of relevance (to fisheries) with respect to ESD are broken down further into sub-components and further in some cases to sub-divisions and presented in a tiered tree graphic.
Likelihood	The state or fact of something being likely; that is the probability or the chance of something happening
Risk	Is a combination of two things: likelihood and consequence. We decide how ‘risky’ something is by asking two questions: <ul style="list-style-type: none"> ○ how likely is this to happen (probability/likelihood) ○ how bad would it be if this did happen (severity/consequence) from a risk assessment perspective, it is the <u>chance</u> of something happening that will have an <u>impact</u> on objectives a community might set themselves in order to achieve a certain level of well-being.
Risk Assessment	Involves consideration of the sources of risk, their consequences and the likelihood that those consequences may occur
Traditional Fishing Knowledge	Traditional knowledge refers to the knowledge, innovations, and practices of Indigenous people and communities
Values	Principles or standards of behaviour. One’s judgement of what is important in life.

Acronyms and Descriptors

Acronym	Descriptor
FRDC	Fisheries Research and Development Corporation
ILUA	Indigenous Land Use Agreement
QYAC	Quandamooka Yoolooburrabee Aboriginal Corporation

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3	PARTICIPANT SELECTION.....	2
4	WORKSHOP	3
	4.1 WORKSHOP SCOPE.....	3
	4.2 WORKSHOP AGENDA.....	3
5	WORKSHOP – DAY 1	3
6	WORKSHOP – DAY 2	5
Appendix 1:	Excel Sheet Record of Each Issue and Impact on Cultural Fishing	
Appendix 2.	Original Indigenous Community Well-being component tree from Fletcher....	
Appendix 3:	Completed Risk Assessments Quandamooka.....	

1 INTRODUCTION

This document provides a summary of the outputs from the 2nd case study workshop held at North Stradbroke Island, Queensland in June 2016 under Phase 2 of the FRDC Project 2014/233 - Improving access for Indigenous Australians to and involvement in the use and management of Australia's fisheries resources.

Phase 2 of this project is aimed at testing and refining a methodology, developed by Fletcher et al (2002) and further refined in Fletcher 2015, to assess the impact of a fishery on Indigenous community wellbeing using a series of case studies (workshops). One workshop has already been conducted on the south coast of NSW at Moruya in May 2016. This workshop focussed specifically on the potential impacts of non-indigenous fisheries targeting abalone.

Selection of North Stradbroke Island as the site for the second workshop was based on a number of factors including;

- the continuing existence of a vibrant Aboriginal cultural fishery, including the participation of community members in the commercial industry, in the waters surrounding North Stradbroke Island
- the proximity of a large urban area (Brisbane) adjacent to the Quandamooka Yoolooburrabee sea country
- the Quandamooka Native Title Determination of the 4th July 2011
- the presence of the Moreton Bay Marine Park covering 3,400 KM² and overlapping Quandamooka Yoolooburrabee sea country
- a history of Aboriginal people from North Stradbroke engaging in a variety of sea country planning activities spanning a period of 30 years
- existing connections between the PI and community members.

2 WORKSHOP PRELIMINARIES

In organising the workshop initial contact was made by the Project Principal Investigator by phone with the Joint Management Coordinator of the Quandamooka Yoolooburrabee Aboriginal Corporation (QYAC) on North Stradbroke Island. The PI was then invited to discuss the project workshop proposal with a number of community members, which took place on 11th of May at the QYAC offices on North Stradbroke Island.

The outcome of these discussions was positive however there was a request by the community members present to broaden the scope of workshop to address impacts on cultural fishing from sources other than non-indigenous fishing for example impacts from marine parks. While this fell a little outside of the project scope the project team agreed to the request.

The group also discussed how many people ought to attend the workshop and the PI explained that based on Fletchers work the appropriate number was between 7 and 12. An ideal make up would see representative representation of people from the region noting age, gender and community and industry roles. While the group felt this was too small it was decided to set this range as a minimum and invite more people knowing that there would be some attrition in those actually attending on the day. The group also provided a list of names of people to invite.

The dates for the workshop were set for 23rd to the 24th of June and to be held at the QYAC offices.

3 PARTICIPANT SELECTION

Invited participants were drawn from the geographic area that was the ESD scope for the workshop. They were selected by members of the Traditional Owner families within that region. They were identified as key knowledge holders from key traditional owner fishing families by project community liaisons at QYAC.

Invitations were provided via mail, email and in person by the researchers or community liaisons.

Around 25 participants were invited to attend with the final attendees list of 24 shown in Table 1.

Participants were provided with fees to cover expenses.

Participant's demographics

- 24 participants
- 12% female
- 45% over 50
- 33% commercial fishers.

Table 1: Participants¹ for the Case Study 2 – Quandamooka Qld

Gender	Age Range	Language	Role
Male	60+	English	65 years fishing in areas
Male	40+	English	QYAC project community liaison
Male	50+	English	Oyster grower, LC member, former ranger, Beche de Mer, turtle and dugong hunter.
Male	50+	English	Commercial in-shore fishery and oysters
Male	20+	English	Ranger and spear fisher
Male	20+	English	Ranger, Bech de Mer diver
Male	60+	English	Fifth generation dugong, oyster and line fisher
Male	20+	English	Commercial oyster, net fisher, prawn trawler, mackerel and Bech de Mer
Female	30+	English	Project community liaison
Male	60+	English	Oyster, commercial and cultural fisher
Male	60+	English	Commercial fisher
Female	60+	English	Non-Indigenous
Male	50+	English	Commercial in-shore fisher
Male	50+	English	Commercial in-shore fisher
Male	20+	English	Commercial in-shore fisher
Male	10+	English	Fisher
Male	20+	English	Dugong and turtle hunter
Male	20+	English	Fisher, Ranger
Male	30+	English	Fisher, Ranger and oystering family

¹ Names of participants were omitted to provide anonymity

4 WORKSHOP

The workshop was delivered over two days to allow time for matters of concern to be adequately discussed and recordable outcomes developed. The evening of day one also provided an opportunity for participants to discuss any outstanding or unresolved issues in private, before resuming on the second day. The Project Team used this time to discuss the data and discussions from day one to refine and guide the activities on day two.

4.1 Workshop Scope

The scope was set to cover all impacts on Indigenous fishing by non-Indigenous fishers, Agencies and impacts arising from the proclamation of Marine parks in the area.

4.2 Workshop Agenda

The Agenda was general in nature as the project team felt the workshop proceedings could take a number of different directions depending on how strongly the participant's views were on particular subjects within their scope of the concern. This would then provide an opening in the agenda to explore this further if needed.

The project team utilised the learning from Workshop 1, but tried to stay true wherever possible with Fletchers protocols.

5 WORKSHOP – DAY 1

Prior to the workshop commencing a welcome to country was provided and then members of the project team introduced themselves to the workshop participants.

On commencement of the workshop participants provided their approval for the taking of photos for use in extending the FRDC project and to allow the videoing of the sessions to provide additional reference material when developing project products. It was agreed the video was not to be distributed and would be erased at the projects completion unless the group wished to keep a copy.

For day one participants were provided with an introduction to the ESD risk assessment concept and the overall aims of the project by the PI. The participants were then provided with a semi-tutorial session on developing key objectives for their fishery, how to allocate a value to each objective by taking them through the process of documenting information by firstly identifying key fisheries issues and what could be causing those issues.

The PI detailed the rationale for the workshop and provided an overview of the importance of ESD risk process followed by an around the table introduction. The introductions not only put names to faces but also gave an opportunity for all participants, including the project team, to explain their thoughts about the purpose of the workshop and what they hoped to gain from it, i.e.:

- cultural maintenance and protection
- importance of fishing and seafood as a way of life
- use, access and fishing rights as cultural necessities
- Indigenous people to have a say in the process and to receive quality information
- respect from non-Indigenous people/community for Indigenous cultural fishing

- cessation of harassment (by fisheries compliance officers, other fishers and the broad public) for undertaking cultural practices.

Each participant was asked to provide a little background on themselves including their interest in fishing and the use of other aquatic biological resources and what key issues they felt were impacting their ability to utilise the resources in an appropriate cultural manner. This process was different than that used in Workshop 1 as it combined the personal introductions and issue collections phase. This was undertaken as it was felt that there was significant cross over and repetition collecting this information at Workshop 1. This information was noted on a whiteboard, entered onto excel sheets (Appendix 1) and also recorded by other Project Team members.

The morning session identified a large range of issues, their importance and matters that could be considered in the development of objectives that the community might develop as part of a local fisheries management plan. High level Broad Values were identified and then streamlined down to five key values – (i.e. Environmental Health, Cultural Practices, Social Cohesion, Economic Opportunity and Health - Physical and Mental (Figure 1)

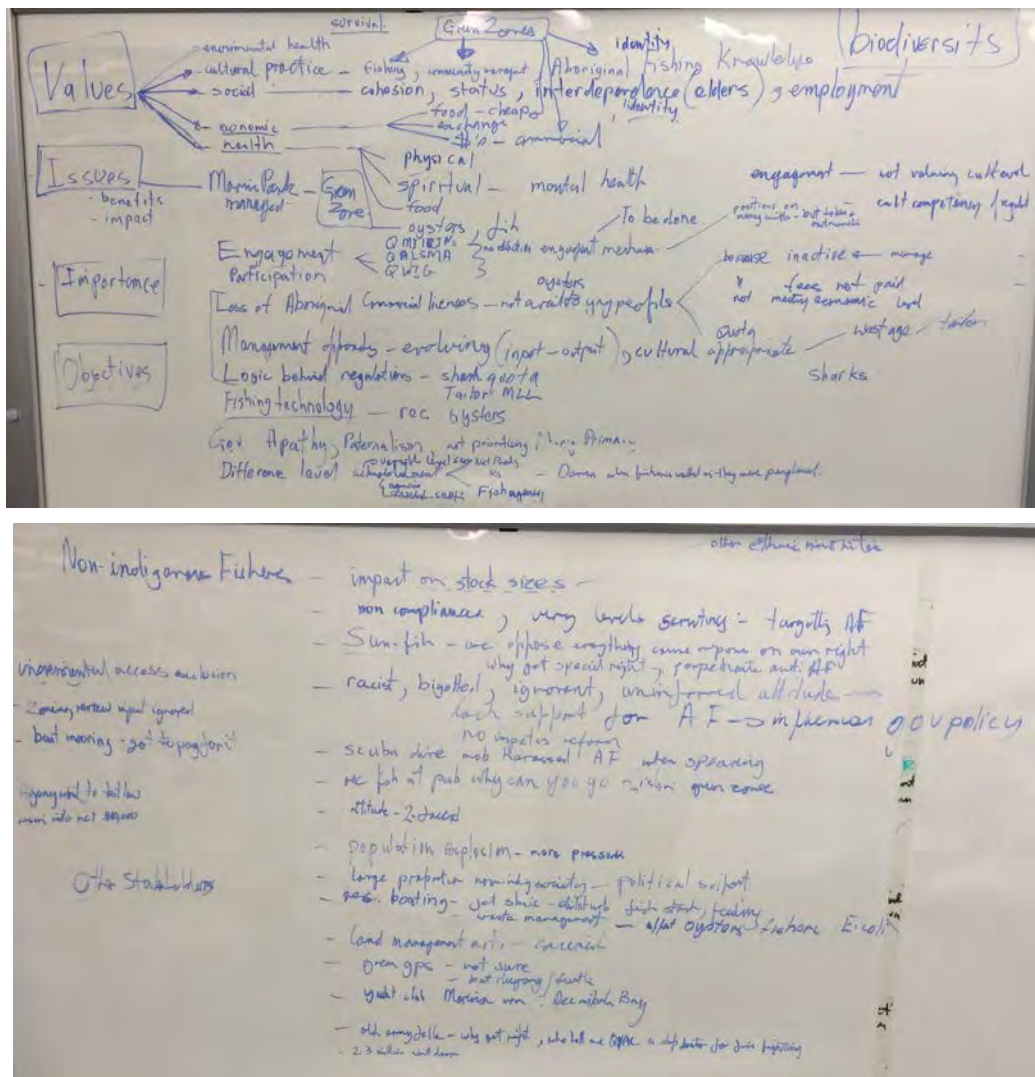


Figure 1: Issues, Values and Importance and Objectives Identified - Day 1 Quandamooka

During the evening of the first day the project team discussed the information provided by participants and sought to integrate some of this information into the original component tree developed for Indigenous community well-being (Fletcher et al 2002, see Appendix 2). This resulted in a much more expanded version of that original tree (see Figure 2).

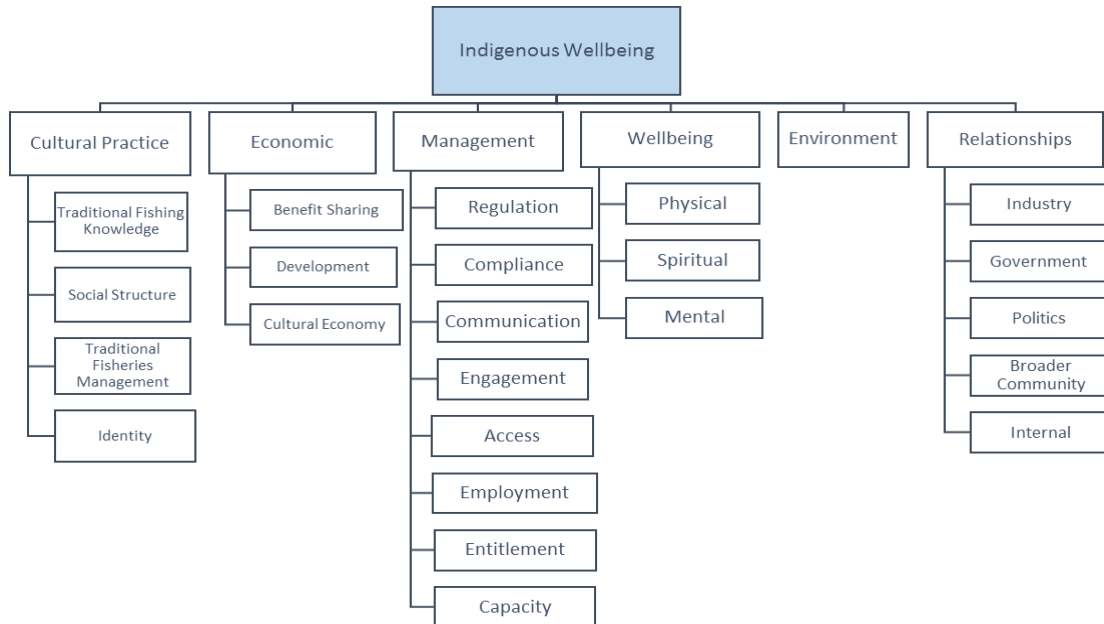


Figure 2 Quandamooka Component Tree Developed from Day 1 Issues

This modified component tree was then used on day 2 as a basis to conduct risk assessments on each of the subcomponents including; cultural practice, economic, management, wellbeing, environment and relationships.

6 WORKSHOP – DAY 2

The aim of day two was to assess and complete a risk impact and likelihood table based on five likelihood levels and five impact levels, i.e.; 1 = low likelihood or risk and 5 = high likelihood or impact.

The terms were changed slightly from that outlined by Fletcher to terms that were considered more user friendly for participants who are very unfamiliar with the process (Table 2).

In addition, each impact was allocated a risk statement to clearly describe to participants how they are to be used to describe the severity, which ranged from no loss through to total loss (Table 3). This information was on display throughout Day 2 for continually reference.

In addition, Figure 3 was provided to show how the Likelihood – Consequence score is determined for the Risk Assessment.

It must be noted that the ratings are based on the Communities experiences with Fishery and Marine Park policy and compliance.

Table 2: Risk Impact and Likelihood Table

Impact/Risk	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					
Major					
Extreme					

Table 3: Objective statements to describe severity of each impact

Consequence	Statement/Description
No Impact	No loss of right no restriction on country
No Big deal	No loss of right some minor restriction on country (<5% area) or competing interests from other users taking the fish
An issue	Some loss of rights/ some loss of access to country (20%)
Major	Large impact on rights/ loss of access to most of country (<50%)
Extreme	Lost rights lost access

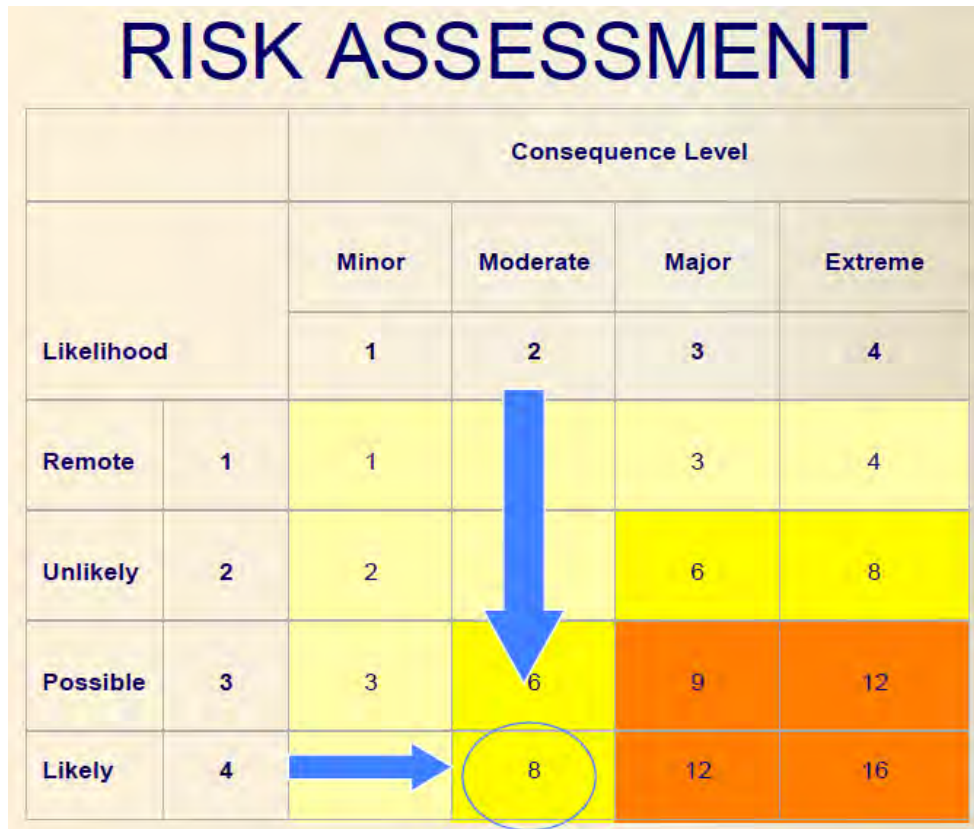


Figure 3: Sample Risk Assessments – Showing Likelihood – Consequence Example

Participants workshopped the risk profile for each of the Sub Components. Impact and risk levels were recorded based on the issues (and impacts). This process was repeated 23 times to cover each of the Sub Components shown in Figure 2.

The risk assessment was process was facilitated by the PI and the details recorded live on a screen by Stan so that all participants could easily see the Component, Sub Component, Issues that were being discussed and the agreed rating.

An example of what participants saw on the live screen is shown in Figure 4, noting the agreed outcomes was an extreme Impact (5) and Certainty (5) that it would happen, therefore a rating of $5 \times 5 = 25$.

Notes were also taken to provide additional justification information for each risk/impact profile with the completed Risk Assessments shown in Appendix 3.

Figure 4: Example of Live Screen Used During Risk Assessment Process – Day 2.

Appendix I: Excel Sheet Record of Each Issue and Impact on Cultural Fishing

SUB-COMPONENT	ISSUES
Access	Mooring fees are now coming in. Indigenous inhabitants have to go on a waiting list to get a mooring.
Access	Conflict with commercial and amateur fishers for the same resource.
Access	Green zone may not be valid due to native title determination.
Access / Development	Yacht squadron development will displace traditional owners. More non-indigenous people living on the island making TO more of a minority
Benefit Sharing	Lack of recognition of our economic rights to the resources.
Broader Community	Racism is evident in the rec fishing sector. Uninformed attitude and thinking. Influences Govt policy in a negative way to the indigenous fishers.
Broader Community	Tourism/scuba companies also think Indigenous rights are not right.
Broader Community	Gear being damaged because people believe they are overharvesting or having an impact on their catch.
Broader Community	Problems with being next to a capitals city with lots of traffic and general public.
Capacity	Need more clarity around indigenous hunting in green zones.
Capacity	School groups etc, conducting excursions in the area but don't leave the area as they find it.
Capacity	Confusion about who actually owns, controls and can talk about the native title.
Communication	Would like to see the research results that say commercial fishing is not as bad as rec fishing.
Communication	Perception that the fishery department is trying to get them out the fishery. Fisheries management is not happening with any consultation with the TO's.
Compliance	Recreational fishers high-grading when they've reached their bag limit.
Compliance	Non indigenous rec fishers are taking more than the bag limit and not getting policed properly.
Compliance	Perception is TO's are being unfairly targeted by compliance.
Compliance	Compliance need to do more around the rec fishers.
Compliance	Rules need to be more lenient for TO's.
Development	How can we implement same model in Torres Strait in this area.
Employment	Need to do lots more Indigenous NRM work in the sea space.
Employment	Need community rangers with delegations for fisheries matters.
Engagement	Marine parks officers do not engage with TO's in a positive manner.
Engagement	Being criticised for using technology (outboards etc) while undertaking traditional fishing
Engagement	DPI created a QIWG (Qld Indigenous Working Group). They had one meeting in Straddie and they didn't see them after that.
Engagement	Government not properly consulting or making indigenous people a priority in their management regimes.
Engagement	Current fisheries reg's changes were not done in full consultation with TO's does this mean they are not valid.
Engagement	Concerned about behind-the-scene word of mouth agreements between govt and non-indigenous sector.
Entitlement	Aboriginal fishers make up less than 1% of fishers in the region so more recognition and rights for indigenous fishers.

SUB-COMPONENT	ISSUES
Environment	All shellfish are disappearing due to pollution not overharvest.
Environment	Population explosion more pressure on the environment through inadequate waste management.
Government	Public servants with influence need to better understand indigenous people and their priorities/struggles.
Government	Indigenous people working for PWS are told that it is a conflict of interest for them to be doing traditional hunting on their own time.
Government	Lack of continuity of government agency people
Government	Believes the govt set them up to fail with the BDM fishery.
Industry	Sun fish opposed to any Indigenous rights around fishing.
Physical	Elders died of blood poisoning from oysters.
Regulations	Not many licences available for the next generation. What happens if your fathers licence is taken back how do I participate.
Regulations	Latent and inactive licences being revoked.
Regulations	Catch and/or effort is reduced to point where the licence is revoked.
Regulations	Multi-endorsed licences. Catch recording/effort rates are based on species seasonal availability. This effects catch documentation and latent effort.
Regulations	Dead accidentally caught by-catch needs to be thrown away by law, but tradition is to take them home to eat and/or share with elders. They think it's a waste of food.
Regulations	Non indigenous fishers don't seem to be a problem at the moment as all licences are not being utilised. If all licences are full utilised there will be a problem with competition.
Regulations	Jet ski's traversing fish feeding area's on a more regular basis.
Regulations	Australia's international signatory to various agreements have an impact on traditional fishing.
Regulations	Cultural crab catch is reduced from pro fishers fishing in area's they shouldn't be.
Regulations	Has noticed reduction in mullet over the years.
Regulations	GPS and technology is causing effort creep and impacting cultural fishing.
Regulations	People from outside the area (south sea islanders etc) over-fishing in the area.
Regulations	Licence fee's used to be affordable but have gone up to unfeasible.
Regulations	Can no longer make a living out of fishing due to rising management costs.
Regulations	Has been told catches are only for barter and trade. Not to be sold for money. Problem is you can't barter fish for petrol etc
Regulations	Safe Foods have advised that he needs to be in a specific type of building to open the oysters.
Regulations	Concerned about the amount of permits/licences in one area now. Potential to cause conflicts. Some physical altercations have already occurred.
Regulations	TO's shouldn't have to get commercial licences or permits, they should just be allowed to fish.
Regulations	Government creating artificial reefs but telling TO's to remove their old oyster furniture.
Regulations	Too much ridged rules and restrictions which stops them from sharing catch in the community.

SUB-COMPONENT	ISSUES
Regulations	TO fishers feel its cultural rude to stop people e.g. Elder, from helping them to pull nets. Compliance say its against regulations to have more than that which is allowed to fish. All community should be allowed to help and in return take some fish. This will enable the broader community to connect with the TO's of the area.
Regulations	Zoning making it harder to catch fish which they have traditional fished in those area's. Open area's are now located in area's that are less safe for fishermen to work in.
Regulations	Green zone provides areas for cultural fishing.
Regulations	Native Title Land use agreement doesn't permit commercial use.
Regulations	The QLD Indigenous fishing permits didn't allow long term access to the fishery
Regulations	Regulations that limit numbers of crew to pull nets effect tourism as some tourist base their holidays around the mullet fishing season and being able to assist.
Social structure	Everybody likes to eat fish but not everybody can go out and fish. Interdependence between generations no matter which race they are. The laws do not assist to maintain that particular practice.
Spiritual	Fishing provides a healing effect.
TFK	The fishers know how much stock is available to fish through years of experience fishing that species.
TFK	Fishers are seeing tailor that are reaching sexual maturity well before the current size limit (35cm long).
TFM	Put closures around the community to allow better cultural harvest access
TFM	Majority are not commercial fishers but it's really important that the commercial fishermen are the TO.
TFM	Torres Strait Islanders catching dugong and turtle in the Quandamooka area. Is this allowed?

Appendix 2. Original Indigenous Community Well-being component tree from Fletcher et al 2002*.

4.2.4 Indigenous Community Well-being

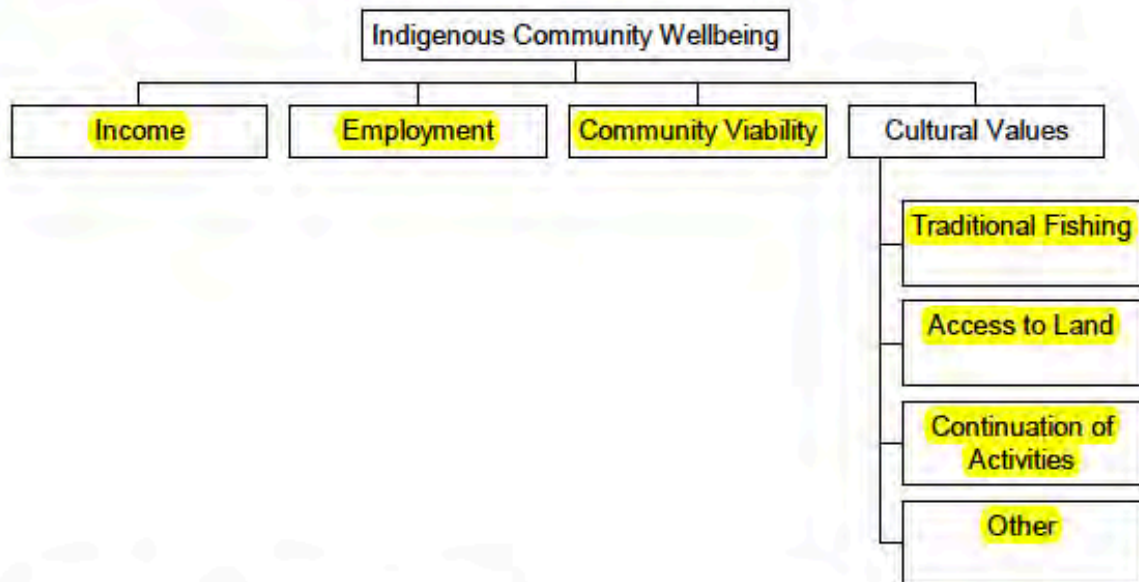
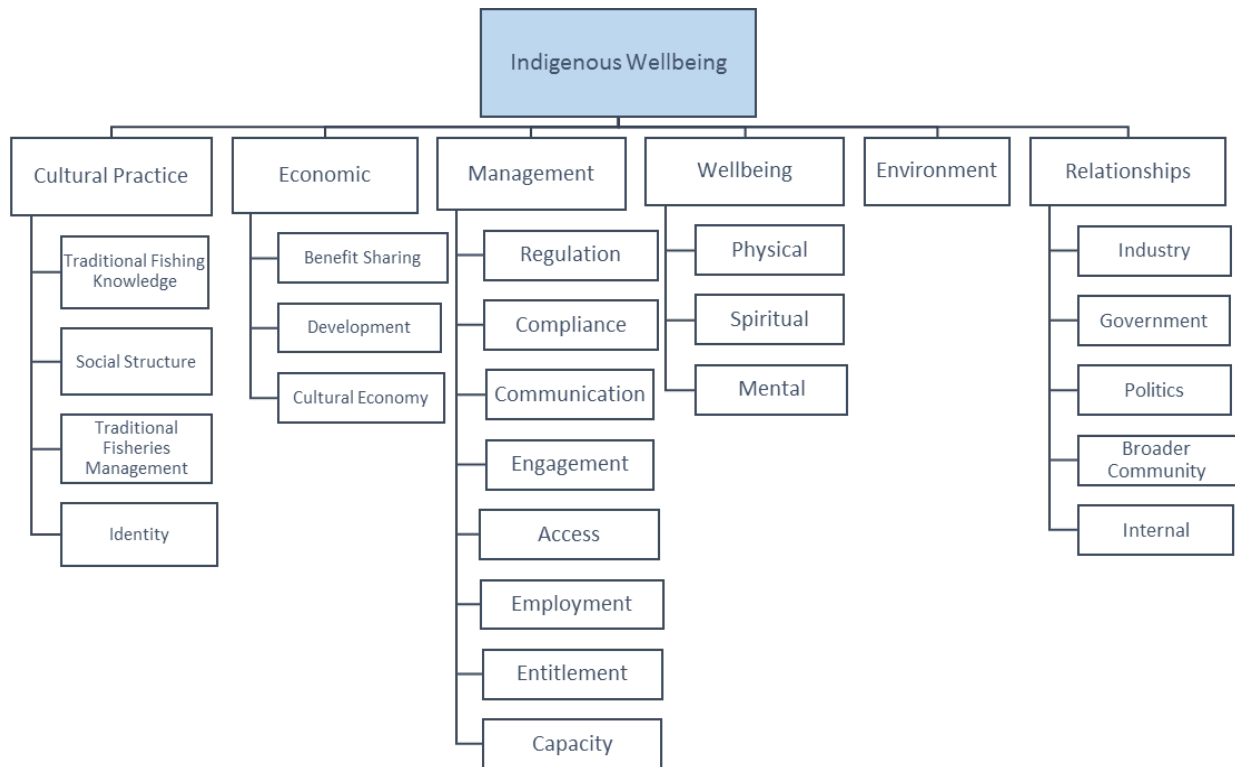


Figure 9 The Generic Component Tree for Indigenous Well-being

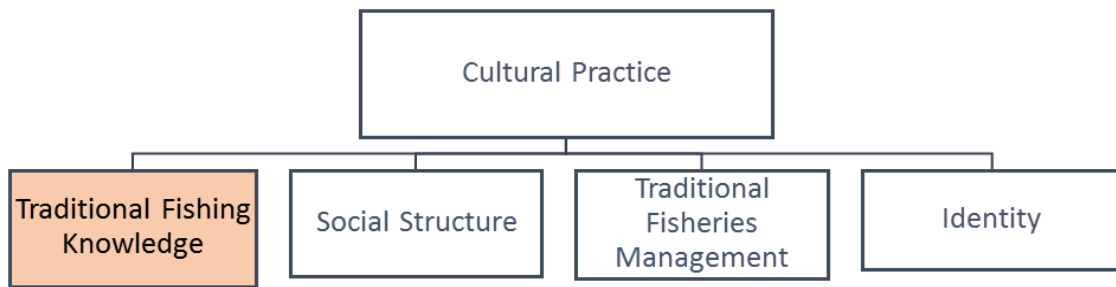
* Fletcher, W.J., Chesson, J., Fisher M., Sainsbury, K.J., Hundloe, T., Smith, A.D.M. and B. Whitworth (2002) National ESD Reporting Framework for Australian Fisheries: The 'How to' Guide for Wild Capture Fisheries. FRDC Project 2000/145, Canberra, Australia.

Appendix 3: Completed Risk Assessments Quandamooka

Overall Indigenous Wellbeing Component Tree



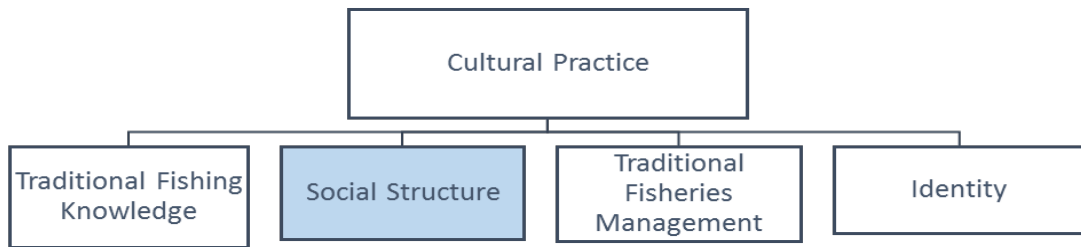
Each of the Subcomponents are addressed individually in the following pages



What are the risks (potential impacts) on TRADITIONAL FISHING KNOWLEDGE?

1. Not being able to transfer cultural practices and traditional knowledge?
2. Laws that stop gatherings or interfere with how gatherings can be done to pass knowledge on
3. Not having access to the places to do it
4. Intergenerational
5. TFK Appropriated without consent, using this knowledge to benefit
6. Compliance officers ignoring the intent of the ILUA, targeting fishers exercising known rights

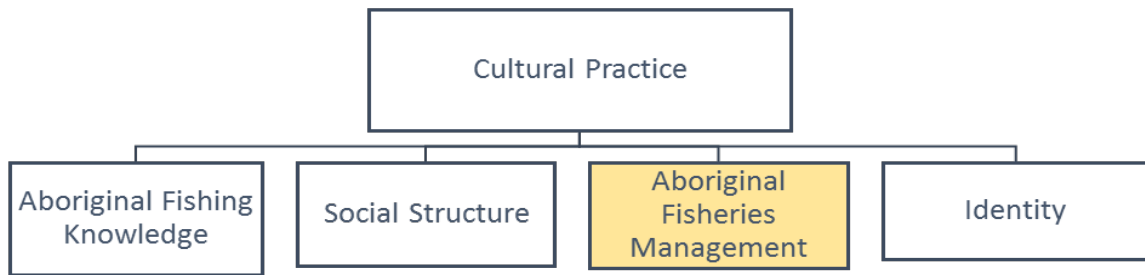
	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					
Major				4x4	
Extreme					5x5



What are the risks (potential impacts) on SOCIAL STRUCTURE?

1. Severing the links of interdependence with the community and key cultural fishers?
2. Members of the community (elders) (younger fellas interfering in turtle hunting) feel threatened by compliance mechanisms so avoid going fishing
3. Overzealous compliance officers, lack of respect and their approach at cultural activities and traditional practices
4. Agencies not having effective cultural awareness training

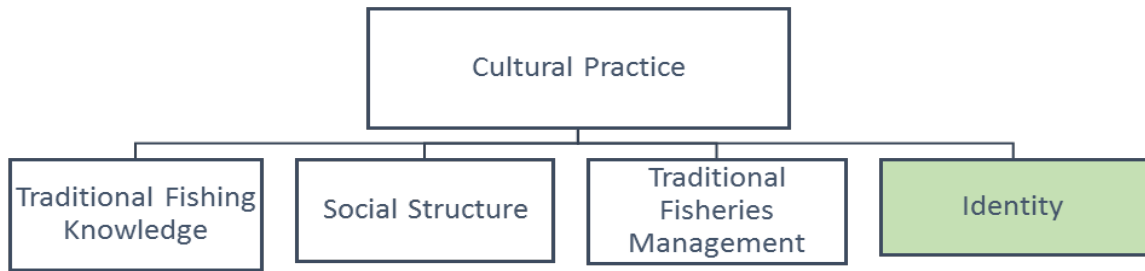
	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					
Major					
Extreme					5x5



What are the risks (potential impacts) on ABORIGINAL FISHERIES MANAGEMENT?

1. Not recognising traditional fisheries management?
2. Not recognising rights are for Quandamooka descendants, not other community members?
3. Benefit of having a cultural presence in the Agency (employ people with adequate support, actively participating in all elements)
4. ILUA in place over sea country (restricted by no- commercial), Indigenous Management Agreement in place. (future potential to development a Cultural Fisheries Management Plan)
5. Lack of acceptance that commercial activity is part of Aboriginal Fisheries Management

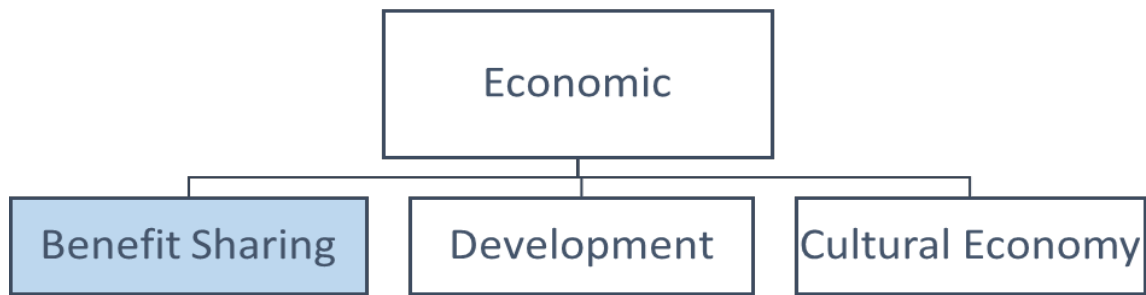
	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					
Major				4x4	
Extreme					5x5



What are the risks (potential impacts) on IDENTITY?

1. Not recognising and understanding your connection to country and how it is integral to your identity?

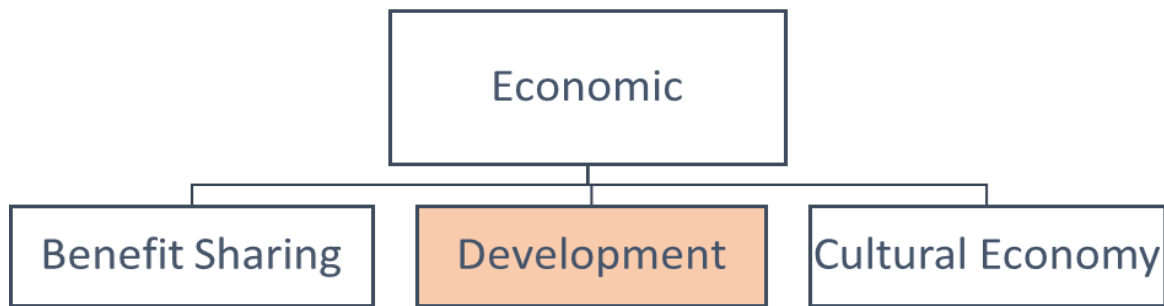
	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					
Major					
Extreme					5x5



What are the risks (potential impacts) on BENEFIT SHARING:

1. Not gaining sufficient benefits for sharing your resource?
2. Are there any benefits (employment)
3. Access to commercial licence denied
4. Indigenous Fishing Permit short term 3years needs to be an active business (provide business plans)
5. ILUA doesn't acknowledge and include Aboriginal commercial fishing
6. Native title doesn't cover commercial activities
7. Definition of culture fishing
8. No process for identifying potential benefit sharing mechanisms (rec fishing, whale, chartering, moorings, barges,

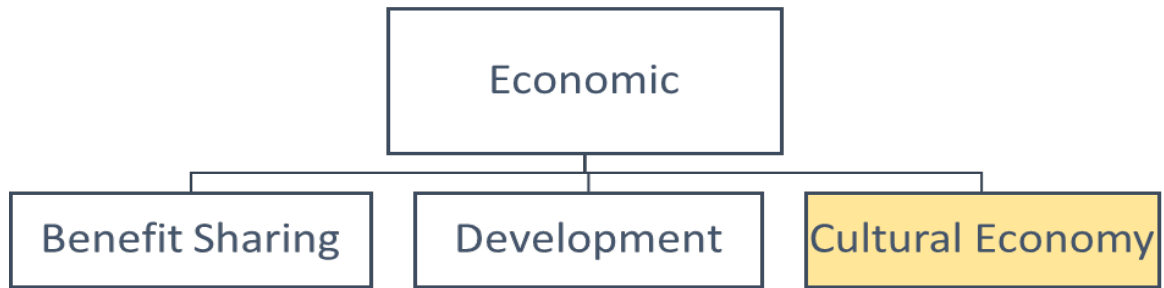
Re	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					
Major					
Extreme					5x5



What are the risks (potential impacts) on DEVELOPMENT:

1. Not having a model like the Torres Strait in this area?
2. Getting into Aquaculture (Oysters, Trepang)
3. Limited access to commercial industry (IFP comes with strings, no long solution), limited licences available in the area (Management priority to reduce overall effort eg; the amount of number of licences)
4. Other stakeholder pressure to reduce commercial fishing practice, reallocating catch (recreational fishers/green groups)
5. Aquaculture, Processing, Co-operatives, Tourism/hospitality aspirations
6. Bech De Mer – (wild harvest to aquaculture to restock) failed management, insufficient capacity, internal governance, joint venture (government, private sector, community) no support
7. Oyster farming – excessive fees and infrastructure making it financially inviable. Oyster management plan contained an agreement with MP’s to target oyster growers for removal. Consulted with the oyster growers’ association but not with individuals that’s leases were targeted. Pressure to remove furniture, threat of fines and end result forcing out of the commercial industry.

	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					
Major					
Extreme			3x5		5x5



What are the risks (potential impacts) on the CULTURAL ECONOMY:

1. Traditional cultural practice not recognised trade or bartered with monetary value?

	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					
Major					
Extreme					5x5



What are the risks (potential impacts) of REGULATIONS:

1. Of restricting unlicensed involvement in the beach haul?
2. Lack of availability of commercial licenses because of buy backs and targeting licence holders with smaller economic gain?
3. Of licence holders using what now is latent effort
4. Of commercial wastes having to be thrown back rather than feeding the community
5. Allowing jet ski's to constantly traverse over fish feeding area's?
6. Of not fulfilling it International Obligations the Aboriginal people?
7. Not adequately dealing with stock decline for a whole lot of different things?
8. Not regulating technology in the rec sector where fishers are getting to efficient and high grading catch?
9. Rising management costs?
10. Not educating people of other backgrounds on limits and ensuring they adhere to rules?
11. Establishing artificial reefs without engaging community?
12. Enforcing lots of ridged rule and restrictions that stop the sharing of catch?
13. Not permitting commercial harvest in NT agreements?
14. Not providing long term permits to access resources at a commercial level?

	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					
Major					
Extreme					5x5



What are the risks (potential impacts) of COMPLIANCE:

1. Being targeted by compliance?
2. Rec fishers overharvesting?
3. Public are complaining. Compliance act on the complaints

	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					
Major					
Extreme					5x5



What are the risks (potential impacts) of COMMUNICATION:

1. Not having clarity around your rights?
2. Fisheries not communicating or consulting the community?
3. Not being given the evidence or results from research?

	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					
Major					5x4
Extreme					



ENGAGEMENT

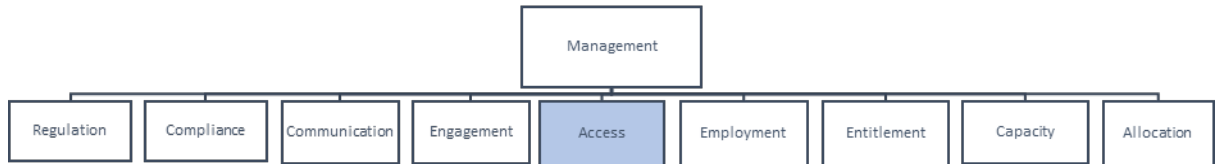
What are the risks (potential impacts) of POOR ENGAGEMENT:

1. No management consultation/engagement process when making decisions on your country?
2. Compliance officer’s negative engagement?
3. Worldviews that traditional fishing is a past practice and cannot evolve into the present?
4. Word of mouth agreements, having very little written?
5. Little recognition of rights and education within the department, their own bias coming into it?
6. Token engagement, without being open, understanding or valuing TO’s input.

	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					
Major					
Extreme					5x5

Action/Note

An engagement protocol developed with TO’s would be a good start.



ACCESS

What are the risks (potential impacts) of POOR ACCESS:

1. Paying mooring fees?
2. No clear division of the fisheries resources competing for the same stock, no first right
3. Marine Park zoning
4. Fishery restructures

	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					
Major					
Extreme					5x5



What are the risks (potential impacts) to EMPLOYMENT:

1. Not having people working on NRM in the sea space?
2. No having community rangers with delegations for fisheries matters?
3. Not having employment opportunities within the agencies and commercial fisheries?

	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					
Major					
Extreme					5x5



What are the risks (potential impacts) to ENTITLEMENT:

1. Not having clear first right and recognition?

	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					
Major					
Extreme					5x5

Action/Note

This is seen as the highest priority



What are the risks (potential impacts) to CAPACITY:

1. Not fully understanding rights under the Native Title Act/Land Rights/National/International/Legislation?
2. No support and information for representatives and community?
3. No clear understanding of rights in Marine Parks Zones?
4. School groups conducting excursions but not respecting country?
5. Confusion over who owns, controls and can talk about Native Title?

	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					
Major					
Extreme					5x5

Action/Note

Some discussion on sovereignty.



What are the risks (potential impacts) of ALLOCATION:

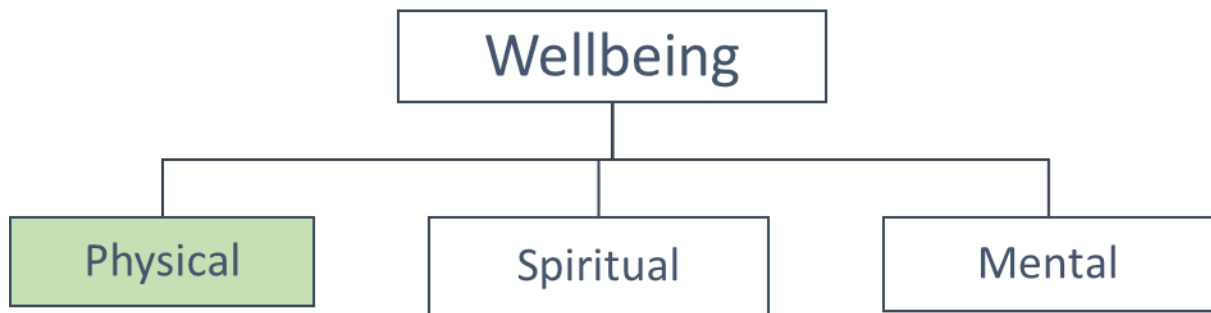
1. Over-harvest by rec sector? Are the current bag limits acceptable from a TO perspective
2. No acknowledgement of ownership of the resource and first right to it?

	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					
Major					
Extreme				4x5	

Action/Note

Some clarity needed around ownership vs right to the resources.

Need more education of tourists about sustainable practices ...using things for bait and wasting that which is not used.



What are the risks (potential impacts) on PHYSICAL WELLBEING:

1. Elders passing due to blood poisoning from working on the oysters throughout their lives?
2. Sharing of fish
3. Not able to help haul in nets
4. Mending nets

	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					
Major					
Extreme					5x5

Action/Note

Some confusion over this point. Could not provide any comments

Eating food from the shop...



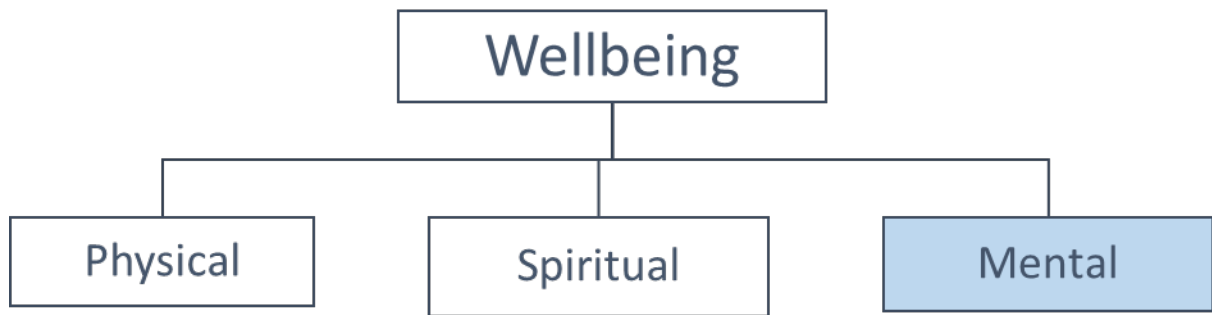
What are the risks (potential impacts) on SPIRITUAL WELLBEING:

1. Ocean providing a healing effect?

	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					
Major					
Extreme		2x5			

Action/Note

Society has changed.



What are the risks (potential impacts) on MENTAL WELLBEING:

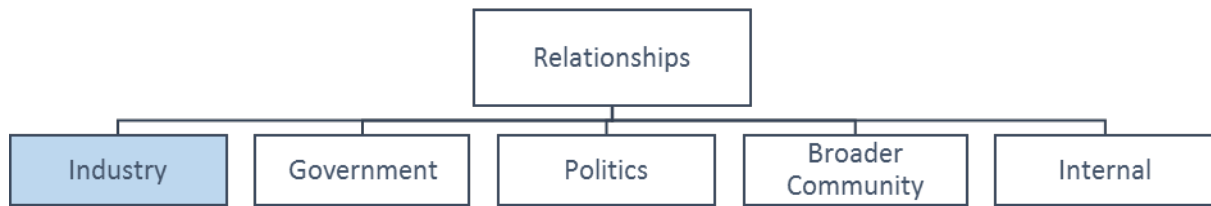
1. Impact on health system. Family resources.

	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					
Major					
Extreme					5x5

Action/Note

Land marks/land reference points being altered by development.

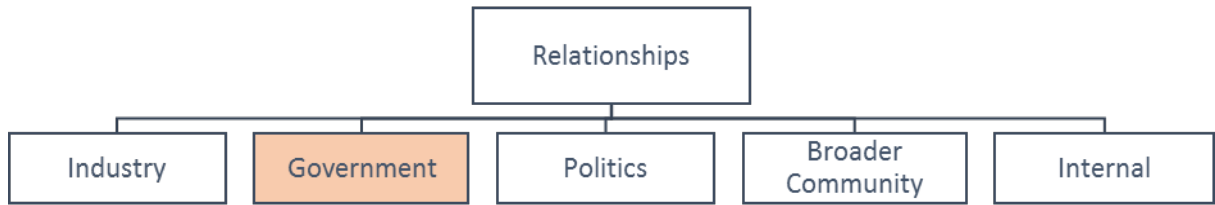
Negative impact on youth getting up to mischief instead of fishing.



What are the risks (potential impacts) of INDUSTRY RELATIONSHIPS:

1. Sun-fish total lack of support?
2. Commercial Industry not providing long term access to the commercial fishery for younger generations.

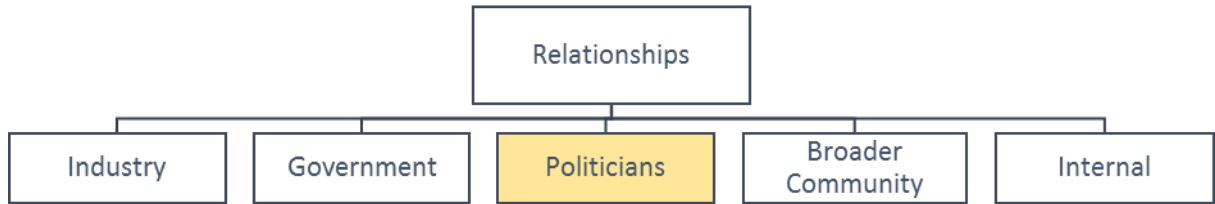
	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					
Major					
Extreme				4x5	



What are the risks (potential impacts) of GOVERNMENT RELATIONSHIPS:

1. Government being influenced by voters who are not connected to the country or the issues?
2. Fishery managers not recognising the living culture of the area.
3. Compliance judging people for their family connection
4. Agency harassment
5. Being told your behaviour outside of work is a conflict of interest rather than educating the broader community?
6. Public servants own views influence outcomes (need a better understanding of indigenous people, their priorities and issues)?

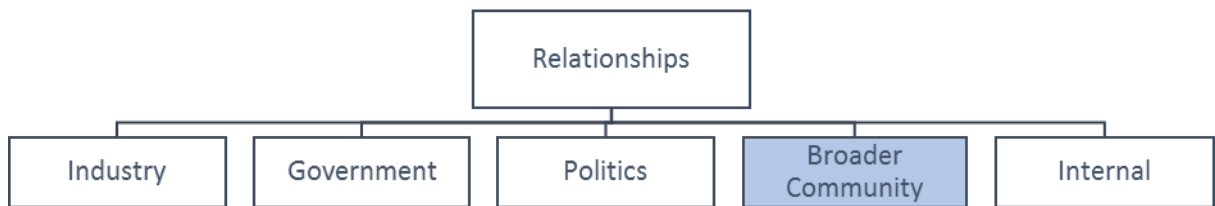
	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					
Major					
Extreme				5x4	



What are the risks (potential impacts) of POLITICIANS RELATIONSHIPS:

1. Politicians being influenced by industry players like Rec fishers who have the numbers?

	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					
Major					
Extreme					5x5



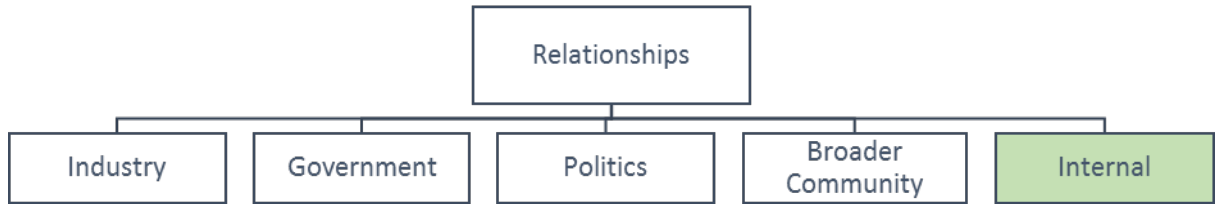
What are the risks (potential impacts) of BROADER COMMUNITY RELATIONSHIPS:

1. Not enough respect for stock and Aboriginal knowledge and rights?
2. Racism, uninformed attitude and thinking?
3. Water based tourism operators confronting you on country questioning your rights?
4. Being next to a capital city all the eyes on the water?

	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					
Major					
Extreme					5x5

Action/Note

Narrow minded people in the broader community



What are the risks (potential impacts) on INTERNAL RELATIONSHIPS:

	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					
Major					
Extreme					5x5

Action/Note

If you keep divided the community will fall apart.

Appendix 2.3 Workshop Report: Horn Island, Torres Strait

FRDC Project 2014/233 - Improving access for Indigenous Australians to and involvement in the use and management of Australia's fisheries resources

Final Report

Outcomes of Case Study Workshop 3

Horn Island, Torres Strait

7th – 8th December 2016



Prepared by Project Group

Stephan Schnierer

Hayley Egan

Stan Lui

Chris Calogeras

Warning for Aboriginal and Torres Strait Islanders

Please be aware that this report may contain the names or images of deceased people. C-AID Consultants strives to treat Indigenous culture and beliefs with respect. We acknowledge that to some communities it can be distressing and offensive to show images of people who are deceased

Terms and Definitions

Term	Definition
Consequence	Is the importance or relevance and the level(s) of impact(s) of something happening
Ecologically Sustainable Development	Common definition– ‘Using, conserving and enhancing the community’s resources so that ecological processes, on which life depends, are maintained, and the total quality of life, now and in the future, can be increased’
Generic Component Tree	Major areas of relevance (to fisheries) with respect to ESD are broken down further into sub-components and further in some cases to sub-divisions and presented in a tiered tree graphic.
Likelihood	The state or fact of something being likely; that is the probability or the chance of something happening
Risk	Is a combination of two things: likelihood and consequence. We decide how ‘risky’ something is by asking two questions: <ul style="list-style-type: none"> ○ how likely is this to happen (probability/likelihood) ○ how bad would it be if this did happen (severity/consequence) from a risk assessment perspective, it is the <u>chance</u> of something happening that will have an <u>impact</u> on objectives a community might set themselves in order to achieve a certain level of well-being.
Risk Assessment	Involves consideration of the sources of risk, their consequences and the likelihood that those consequences may occur
Traditional Fishing Knowledge	Traditional knowledge refers to the knowledge, innovations, and practices of Indigenous people and communities
Values	Principles or standards of behaviour. One’s judgement of what is important in life.

Acronyms and Descriptors

Acronyms	Descriptor
AFMA	Australian Fisheries Management Authority
DAWR	Commonwealth Department of Agriculture and Water Resources
EAF	Ecosystem Approach to Fisheries
EBFM	Ecosystem Based Fisheries Management
EPBC Act	Environment Protection and Biodiversity Conservation Act
ESD	Ecologically Sustainable Development
FMN	Fisheries Management Notice
FRDC	Fisheries Research and Development Corporation
GCT	Generic Component Tree
ICW	Indigenous Community Wellbeing
IEK	Indigenous Ecological a Knowledge
ILUA	Indigenous Land Use Agreement
MEY	Maximum Economic Yield
MSY	Maximum Sustainable Yield
PBC	Prescribed Body Corporate
PNG	Papua New Guinea
PZJA	Protected Zone Joint Authority
QDAF	Queensland Department of Agriculture and Fisheries
QYAC	Quandamooka Yoolooburrabee Aboriginal Corporation
TAC	Total Allowable Catch
TFK	Traditional Fishing Knowledge
TFM	Traditional Fishery management
TIB	Traditional Inhabitant Boat
TRL	Tropical Rock Lobster
TRLF	Torres Strait Tropical Rock Lobster Fishery
TRLMP	TRL Fishery Management Plan
TRLRAG	Tropical Rock Lobster Resource Assessment Group
TRLWG	Torres Strait Tropical Rock Lobster Fishery Working Group
TSFA	Torres Strait Fisheries Act
TSFMI	Torres Strait Fisheries Management Instrument
TSI	Torres Strait Islander
TSRA	Torres Strait Regional Authority
TSSAC	Torres Strait Scientific Advisory Committee
TST	Torres Strait Treaty
TVH	Transferrable Vessel Holder
WG	Working Group
WTO	Wildlife Trade Operation

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1 INTRODUCTION

This report provides a summary of the results from the 3rd case study workshop (W3) held at Horn Island in the Torres Strait from the 7th to the 8th of December 2016 as part of Phase 2 of the Fisheries Research and Development Corporation (FRDC) Project 2014/233 - *Improving access for Indigenous Australians to and involvement in the use and management of Australia's fisheries resources*.

Phase 2 of the project was aimed at testing an element of the risk assessment methodology, developed by Fletcher et al (2002) and Fletcher (2015) to assess the impact of non-indigenous fisheries on Indigenous Community Wellbeing (ICW).

1.1 ESD and risk assessment

Ecological Sustainable Development (ESD) as an approach to manage biological resources was adopted by the Australian government in the 1990's. Essentially this approach seeks to balance environmental, social and economic issues in the management.

In fisheries management ESD had been divided into eight major components including; retained species, non-retained species, general ecosystem, Indigenous wellbeing, community and regional wellbeing, national social and economic wellbeing, impacts of the environment on the fishery and governance arrangements (see Appendix 1). These major components provide guidance for identifying issues relating to the management of fisheries and the impacts of those fisheries more broadly.

Risk assessment is a process that enables managers to prioritise the issues identified through ESD in order that appropriate levels of management response are developed to address the issues. The ESD risk assessment process has been applied to a number of fisheries in Australia but in all cases the component relating to Indigenous wellbeing has been ignored. Hence the need for this project.

1.2 TSI Workshop selection

Three local case study workshops and one national workshop were planned as part of Phase 2. Two local workshops have already been conducted:

- Workshop 1 was held in Moruya on the south coast of NSW on the 23rd and 24th of May 2016 and it focussed on the potential impacts of the commercial abalone fishery on Aboriginal cultural fishing.
- Workshop 2 was held on North Stradbroke Island in Queensland on the 23rd and 24th June 2016 and it examined potential impacts on Aboriginal cultural fishing by non-Indigenous fisheries, Agencies and the establishment the Moreton Bay Marine Parks.

Selection of the Torres Strait Tropical Rock Lobster Fishery (TRLF) for the third and final workshop was based on a several of factors including:

- The continuing existence of a vibrant Torres Strait Islander cultural fishery
- Multiple users with access to the TRL resource:
 - Commercial fishers
 - Transferrable Vessel Holder (TVH) non-traditional inhabitant sector
 - Traditional Inhabitant Boat (TIB)
 - Papua New Guinea (PNG) cross endorsed commercial fishers
 - Torres Strait Islander (TSI) non-commercial fishers
 - PNG non-commercial fishers

- Recreational fishers
- Researchers.
- Aspirations of Torres Strait Islander for 100% ownership of TRLF (TIB allocation is currently 57%).
- Existence of a number of legal instruments that guide the management and use of the TRL resource for Torres Strait Islanders:
 - Torres Strait Treaty (TST)
 - Torres Strait Fisheries Act (TSFA) and Torres Strait Fisheries Regulations 1985
 - Native Title Determination - Torres Strait Regional Sea Claim
 - Protected Zone Joint Authority (PZJA)
 - Environment Protection and Biodiversity Conservation Act (EPBC Act).
 - Torres Strait Fisheries Management Instruments
 - Fisheries Management Notices (FMN) and Licence conditions.
- Multiple government agencies and groups involved in the management, research and consultation in the TRLF:
 - PZJA Standing Committee (AFMA, QDAF, TSRA, DAWR)
 - Torres Strait Scientific Advisory Committee (TSSAC).
 - Torres Strait Tropical Rock Lobster Fishery Working Group (TRLWG)
 - Tropical Rock Lobster Resource Assessment Group (TRLRAG)
 - Torres Strait Community Representatives.
 - Torres Strait Fishers Association Incorporated.
- English is not a primary language for many Torres Strait Islanders in the region.
- The understanding that Indigenous wellbeing is a topic of discussion in relation to the TRLF.
- The current Draft TRLF Management Plan which is available on Website for input.
- TRLF is undergoing an assessment under the EPBC Act section 303FN seeking to renew the Wildlife Trade Operation (WTO).

This report is intended as a draft for participants who attended the workshop to provide them with an opportunity to give any feedback on the content as they see fit.

2 WORKSHOP METHODOLOGY

2.1 Preparation

The project team made Initial contact with the Torres Strait Regional Authority (TSRA) to discuss the opportunity to provide support for the workshop. The team explained that the objective of the workshop was to test a risk assessment methodology that had been developed to assess the potential impacts of non-indigenous fisheries on Indigenous cultural fishing. This methodology was developed Dr Rick Fletcher's in 2002.

The dates for the 2-day workshop were set for 23rd to the 24th of November 2016 to be held on Horn Island in the Torres Strait. TSRA agreed to support the project by funding travel, accommodation and meals for a number of Torres Strait Islander TRL fishers and community fisher representatives to attend. In line with Fletcher's recommendations, it was agreed that the appropriate number of participants would be between 7 and 12.

The project team agreed to provide TSRA with a draft report of the outcomes of the workshop with the understanding that the report was part of a research project aimed at testing a methodology for conducting a risk assessment on a fishery.

2.2 Participant Selection

Workshop participants were to be selected by TSRA based on their level of involvement in and understanding of the management arrangements of the TRLF. They were identified as key knowledge holders from key communities and also those that had had some experience in the various PZJA research and management forums in place in the Torres Strait. Participants were to include fishers, community representatives, PZJA Working Group members and Torres Strait regional community cluster members.

TSRA sent invitations by phone and email to at least 10 potential participants. Eight people accepted the invitation to attend the two-day workshop. Participant's expenses were compensated.

On day 1 and prior to the commencement of the workshop, each participant was asked to provide their approval for the project team to make a record of the discussions including by camera and video. It was agreed that any video recordings would not be distributed but erased at the project's completion unless otherwise indicated by the participants.

2.3 Workshop Format

The workshop was to be run over two days so as to provide enough time for issues raised by participants to be identified, discussed and assessed. Each day was divided into 2 sessions of 2 hours duration, a morning session and an afternoon session.

All sessions were facilitated by the project team principal investigator, with the other members of the team providing a support role including, taking written notes of the discussions between participants and the team.

As is the custom in Torres Strait, the workshop commenced with a welcome and prayer.

2.3.1 Day 1 - Issues Identification

Day 1 was to include:

- Introduction to the project team.
- Outline the overall aims of Phase 2 of the FRDC Project 2014/233.
- A summary of some outcomes from the previous two case study workshops.
- Overview of the need for and importance of the ESD risk assessment process.
- Brief explanation of the steps involved in conducting an ESD risk assessment including:
 - Identification of issues that potentially impact the communities' aspirations in the fisheries
 - Estimating a value for the level of risk associated with each issue using a consequence-likelihood table.

Following the introduction, each participant was invited to provide personal background including their interest in Tropical Rock Lobster Fishery (TRLF), their use of other aquatic biological resources, and how they were valued, and the issues they felt were impacting their ability to utilise the resources in an appropriate cultural and economic manner.

This introduction phase was followed by a general group discussion to enable participants to identify as many of the issues, relating to their fishery, having an impact (positive or negative) on their activities. This included the potential impacts from non-indigenous fishers, other

stakeholders, agencies and issues arising from the multi-layer legislative instruments the fishery and people operate under.

As issues were raised during discussions they were recorded on a white board by the facilitator so that participants could keep track of the discussions. At the same time, note takers from the project team recorded as much detail as they could relating to the issues including any specific examples and evidence provided by participants.

The evening of day one was used by the project team to review and analyse the information recorded from the discussions. The aim was to identify key themes within the issues recorded and to use them as a basis for constructing a specific component tree for the TRLF based on the generic component tree for indigenous wellbeing developed by Fletcher et al 2002 (Appendix 2).

The TRLF component tree was then used to guide the risk assessment process on day 2 of the workshop.

For each subcomponent of the TRLF tree a data collection sheet was developed which had space for:

- A title (identified issue)
- Details relating to the issue
- A consequence-likelihood table
- Supporting information.

2.3.2 Day 2 - Risk Assessments

The aim of day two was to assess the risks associated with an activity by completing a consequence and likelihood table based on five levels of likelihood and five levels of impact (consequence), where:

- **likelihood** levels ranged from 1 (very unlikely) to 5 (certain (see Table 1)
- **impact** (consequence) ranged from 1 (no impact) to 5 (extreme impact) (seeTable 2).

Table 1: Likelihood definitions

Level	Value	Descriptor
Very unlikely	1	Not heard of but not impossible
Unlikely	2	Uncommon but has been known to happen on occasions
Probable	3	Can occur on occasions
Likely	4	Occurs some of the time
Certain	5	Occurs all the time

Table 2: Impact (consequence) definitions

Level	Value	Descriptor
No impact	1	Zero to very little impact on community well being
No big deal	2	Level of impact acceptable to the community
An issue	3	Serious impacts occurring but treatable in the short term
Major	4	Very serious impacts requiring sufficient time to fix
Extreme	5	Impacts widespread and permanent possible loss will occur

Combining the values in Table 1 and Table 2 into a consequence-likelihood table enables the determination of a value for the level of risk. This is achieved by multiplying the likelihood value by the impact (consequence). The result of this calculation is twenty-five *risk values* ranging from 1 through to 25 (Table 3).

The range of risk values can be divided into at least four *risk ranking* categories, and each category can be colour coded (Table 4).

Table 3: Risk level values derived from consequence values multiplied by likelihood values

	Very unlikely (1)	Unlikely (2)	Probable (3)	Likely (4)	Certain (5)
No impact (1)	1x1=1	1x2=2	1x3=3	1x4=4	1x5=5
No big deal (2)	2x1=2	2x2=4	2x3=6	2x4=8	2x5=10
An issue (3)	3x1=3	3x2=6	3x3=9	3x4=12	3x5=15
Major (4)	4x1=4	4x2=8	4x3=12	4x4=16	4x5=20
Extreme (5)	5x1=5	5x2=10	5x3=15	4x5=20	5x5=25

Table 4: Risk ranking descriptors for various risk value ranges. (Based on Fletcher et al 2002)

Risk Rankings	Risk Values
Low	1-6
Moderate	7-12
High	13-18
Extreme	>19

With guidance from the facilitators, participants assessed each of the issues in the TRLF component tree. The details were recorded live on a screen by the project team so that all participants could easily see how the risk values were calculated.

In addition, Project Team members took notes to provide background, clarification and supporting thoughts as to why each component was rated as it was. Data sheets were completed by adding any additional information supporting the ultimate level of risk calculated.

3 WORKSHOP RESULTS

3.1 Day 1 Issues Identification

Following on from the round table introductions some participants were eager to share their experiences in the fishery while others were slower to interact. Conversations were wide ranging and at times led to discussions on issues outside of the workshops scope. However, the project team felt it was important to allow conversations to flow and when appropriate to guide participants back to the workshop agenda. This approach allowed participants to feel they could talk about sensitive issues without being interrupted or cut off. In addition, key thoughts were captured for possible discussions later during the workshop.

As the discussions progressed during Session 1, and issues, values and impacts were identified they were recorded on the white board (for example, Figure 1). The project team members also took detailed notes identifying key and/or recurring areas of conversation that related to the ESD process (Appendix 3).

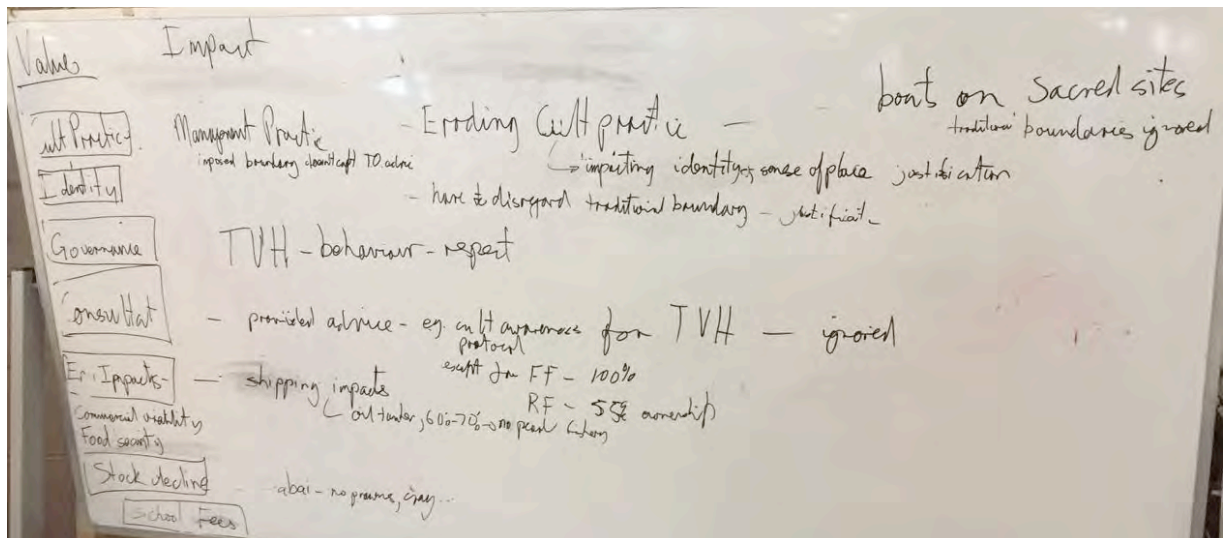


Figure 1: Some specific issues, values and impacts identified by participants at the Horn Island Workshop held on the 23/11/2016.

By the end of the first session over 40 comments were recorded and during the break the project team began aggregating various comments in an attempt to distil the key issues. For example, a recurring theme for participants related to a perceived weakness in engagement with, and consultation between, Indigenous fishers and the agencies managing the fishery. Specific comments, for example included:

"The current PZJA consultative processes fail to meaningfully recognise cultural practices and protocols"

"there is a lack of a real role in the decision making process"

"we (Torres Strait Islanders) need to have a say in the structure of the decision making process. Not fit into a process developed by people who do not live in the region"

"we (Torres Strait Islander) have limited input to SAC (Torres Strait Scientific Assessment Committee)"

" we want to have more involvement in the research, more than just doing the grunt work"

Engagement was therefore identified as an issue for participants. The project team also noted that engagement was a component of a much larger set of issues that could be placed under the banner of Governance.

Another issue related to the impact of western-based fisheries management methods on Torres Strait Island cultural practices and traditional knowledge systems. For example, a few of the comments included:

"they (Fisheries agencies) don't acknowledge cultural fishing practices associated with cultural boundaries and protocols that have been handed down through family lines"

"quota is not suitable for cultural fishing practices in the Torres Strait"

This issue was given the title TFK/TFM (Traditional Fisheries Knowledge/ Traditional Fisheries Management) and it was placed under the broader category of Cultural Practice.

By the end of day, 21 key issues were identified by the project team. These were then placed

into broader categories while some were split in order to provide more detail (Table 5). For example, TFK, social structure and identity were grouped together under Cultural Practice, while legal instruments, compliance communication, engagement, access and allocation, entitlement and capacity were placed in the Governance component.

Table 5: Issues identified TSI participants during the workshop and allocated to broader categories (components)

Component	Key Issue	Sub-Issue
CULTURAL PRACTICE	Traditional Fishing Knowledge	
	Social Structure	
	Identity	
ECONOMY	Benefit sharing	
	Development	
	Cultural economy	
GOVERNANCE	Legal Instruments	Treaty TS FA 1984 Native Title EPBC Act Draft TRLFMP
	Compliance Communication Engagement Access/Allocation Entitlement Capacity	
SOCIAL	Health	
	Relationships	
	R&D	
	Employment	
	Education	
ENVIRONMENT	Shipping Disasters	
	Fishing boat Wrecks	
	Other	

During the evening of day one, the project team reviewed what had been achieved during the day and then using information from Table 5 developed the *Indigenous Wellbeing Component Tree* (Figure 2). This tree was then used to guide the activities on day two.

In some instances, it was felt that the subcomponents (Issues) could be amalgamated (e.g. communication and engagement). In other situations, it was felt that it was more appropriate to disaggregate the potential risks to better reflect specific aspects and associated risk profiles (e.g. Legal Instruments was broken down into sub components – Treaty, Fisheries Act, Native Title, EPBC Act and FMP).

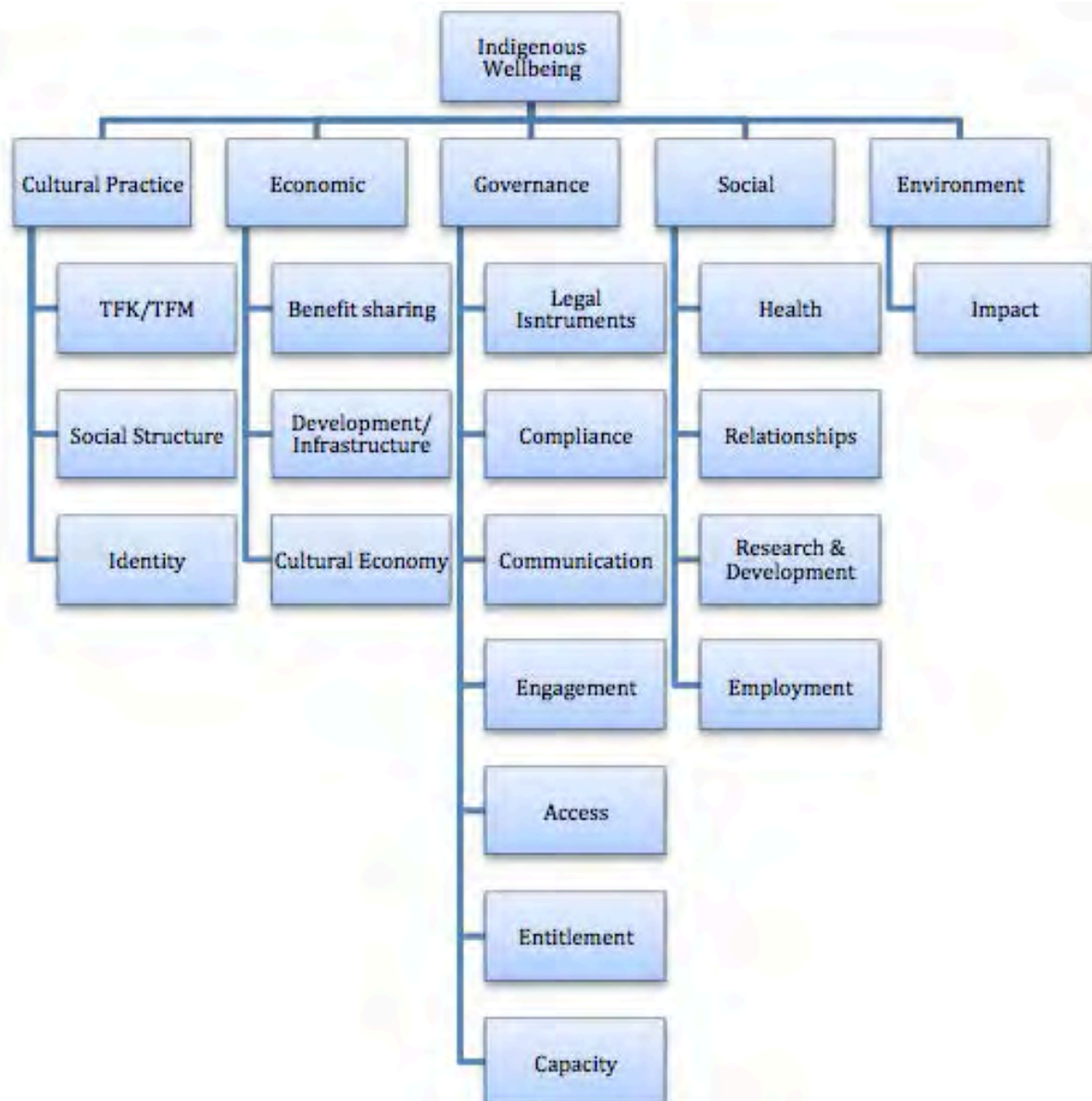


Figure 2: Torres Strait TRL Component Tree Developed from Day 1 Issues and Based on Table 5.

3.2 Day 2 - Risk Assessment

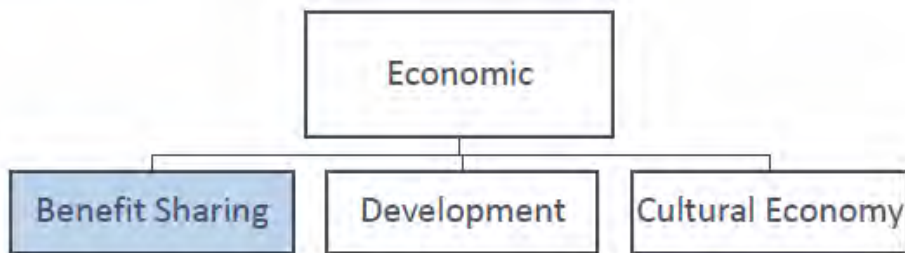
Day two started with an overview of the previous day and an explanation for the component tree that was to be used as a guide. The team explained that most of the day would be spent estimating a value for the level of risk for each of the 21 identified issues (components) in the tree using consequence-likelihood tables.

As well, more background information and supporting statements were sought from the participants for each component (issue) to justify the level of risk estimated.

3.2.1 Example Completed Consequence-Likelihood Table

An example of one completed consequence-likelihood table from Day 2 is presented in Figure 3, which shows the outcome for the issue of Benefit Sharing.

In this example participants felt that benefit sharing was an issue that arises on occasions hence the risk value of 9 or risk ranking of moderate.



BENEFIT SHARING

What are the risks (potential impacts) of inadequate benefit sharing:

1. Not gaining sufficient benefits for sharing of their resource
2. Unequal share of resources
3. TVH not investing in local communities
4. Cost of fishing licences (TVH/TIB) does not reflect difference in fishing operation/harvest rates

	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue			3 X 3 = 9		
Major					
Extreme					

SUPPORTING INFORMATION

- Want 100% ownership
- Majority of profits going south
- Multimillion dollar fishery
- TVH not investing in local community

3 = probable impact
3 = probable likelihood

Figure 3: Consequence-Likelihood Table for Benefit Sharing Showing Participants Felt It Was An Issue That Could Arise On Occasions Giving Risk Value Score of 9.

3.2.2 Risk Assessment Values for All Issues

A data sheet like the one depicted in Figure 3 was produced for each of the other 23 issues depicted in the component tree in Figure 2. Copies of the results for each of the data sheets can be seen in Appendix 4.

The estimated risk values from each of the 23 data sheets was put into a single table (Table 6). The risk values ranged from 9 to 25.

Each risk value was placed into a risk ranking, which varied from low to extreme. From the table it is evident that participants felt that at least 48% of the issues identified could be ranked extreme in nature, 32% high and 20% moderate. There were no low risk rankings.

Governance, Cultural Practice, Social and Environmental Issues were seen by participants as problematic areas carrying very high levels of risk.

	Components	Issues	Sub Issues	Risk values	Risk Ranking	
INDIGENOUS WELLBEING (12)	CULTURAL PRACTICE (19)	TFK		16	High	
		Social Structure		20	Extreme	
		Identity		20	Extreme	
	ECONOMY (13)	Benefit sharing		9	Moderate	
		Development		15	High	
		Cultural economy		16	High	
	GOVERNANCE (17)	Legal Instruments	Treaty		12	Moderate
			TS FA 1984		20	Extreme
			Native Title		9	Moderate
			EPBC Act		9	Moderate
			Draft TRLFMP		25	Extreme
		Compliance		20	Extreme	
		Communication		20	Extreme	
		Engagement		20	Extreme	
		Access/Allocation		20	Extreme	
		Entitlement		12	Moderate	
	Capacity		16	High		
	SOCIAL (24)	Health		25	Extreme	
		Relationships		25	Extreme	
		R&D		15	High	
		Employment		15	High	
		Education		16	High	
	ENVIRONMENT (18)	Shipping Disasters		15	High	
Fishing boat Wrecks			20	Extreme		
Other			20	Extreme		

Table 6: The Aggregated Estimated Risk Values From Each Of The 23 Data Sheets

4 WORKSHOP CONCLUSIONS

4.1 Issues Identification

At least 21 issues were relating to Cultural Practice, Governance, Economy, Social and Environment were identified. Some issues were aggregated, and others disaggregated.

4.2 Risk Values and Ranking

Risk values calculated for each issue identified range from 9 (moderate risk) to 25 (extreme risk). Eighty percent of the risk rankings were well into the extreme to high risk ranking and 20% into the moderate ranking.

There were no issues identified that fell into the low risk ranking.

4.3 Participant reflections on the Workshop

Participants were asked on Day 2 how they felt the workshop went and what could be done better in the future. This was very useful with key suggestions being:

1. Adding an extra day so everyone could go through basic ESD, management and R&D principles.

2. Presenting results from similar workshops conducted in other communities.
3. Presenting an overall map of the whole process as a diagram to show where each step fits into the broader ESD process and management generally.
4. Challenges around having to adopt western concepts to assess Torres Strait Islander needs and values, however it was felt there was a real benefit in being able to develop documents that can be enacted on and incorporated into more formal processes.
5. Need to have a better understanding of western, research and management terminology and concepts – jargon and acronyms limit conversations.
6. Supported a pre workshop information on the ESD risk process session similar to what was held prior to this workshop.
7. Noted the need for any outcomes from these types of workshop to be available to share with TO and community members.
8. More time for introductions especially when you don't know each other.
9. Workshops run better with independent people rather than Agency people facilitating.
10. Impacts on people being involved in consultation – lose wages and people have cultural and social issues that impact family and community harmony.
11. Prescribed Body Corporate (PBC) representatives should sit alongside Working Group (WG) or Cluster representatives at all meetings
12. Need to hold TSI only meeting before broader stakeholder meetings to help understand and develop a position from all communities – this stops divide and conquer taking place.

5 APPENDICES

Appendix 1: The Eight Major Components of ESD (Ecological Sustainable Development (from Fletcher et al 2002).



Appendix 2: Generic Component Tree for Indigenous Community Wellbeing (from Fletcher et al 2002)



Appendix 3: TSI Issues Recorded Day 1 of the Workshop 5 Dec 2016

- Need to have confidence in what the stock status is – uncertainty in current TAC (Total Allowable Catch) setting process and volumes. Need to take into account IEK (Indigenous Ecological Knowledge) and not be disregarded.
- Lack of real role in the decision making process
- Problem with 'cluster' representative model – people can only speak on behalf of their own country and this mode is inadequate. Need capacity and resources to consult with communities if this model is used
- TIB fishers aren't aware of what's happening with TVH fishers – what catching, where fishing, not contacting TO before entering areas to fish
- Catch/effort unknown from - TIB catch, traditional take, PNG and underreporting of trawl bycatch. Need for proper TAC setting.
- Concerns around black marketing of TRL through communities
- TO and TIB want to contribute data to improve knowledge
- Maritime accidents are a major concern – impacts on TEP species, Community operations, food, cultural activity and costs to fish in more distant areas if stocks impacts
- Internal TSI governance needs to be well resourced so that reps can engage and share info – 2 ways
- Poor compliance – not seeing any vessels or being talked to about issues
- Trawlers duping rubbish – may be from old industry
- Could have a sustainable fishery if rules were in place (LOR v LAW), i.e. sacred sites, traditional boundaries set by TO
- Concerns about 10nm exclusion zone inadequate
- Current arrangements have eroded TCP arrangements handed down family lines – want them adopted by AFMA
- TIB fishers can disregard cultural training to have to make money (competition from TVH) and breach social norms by entering other people's boundaries without permission. Sometime use young men from other islands to comply with AFMA requirements – leads to major long term social issues
- New TRL TVH should have to have an induction in respect to culturally appropriate behaviour – less disrespecting LOR. (Finfish are more compliant as they need to maintain community support to get lease in following year). Lack of respect or understanding of cultural practices
- TVH fishers well informed when TRL moving and can harvest very effectively, impacting cultural practices, food security and economic opportunities (e.g. Sabai inshore fishers miss out)
- TIB fishers need to buy larger boats and motors as they have to travel further to be viable
- Native Title clarity around linking to original claims and conditions for native title arrangement based on traditional boundaries and practices – misinformation amongst TOs has led to some social conflicts that have extended to sporting and cultural activities
- PNG have good relations mainly with family connections. Don't want people to go without food. Some greater concentrations in some areas or illegal fishing activity (e.g. Warrior or Sabai) or fishing in sacred areas
- Some issues with PNG harvest for commercial purposes v subsistence take
- Youth having suicide issues as they have no purpose
- Older men have blood pressure and diabetes issues
- No fish in 'larder' and people find it easier to buy food from store, including seafood
- Not enough profit from fishing close to home to be able to pay young boys who come out fishing
- Older people learnt skills and knowledge from uncles – not happening now
- Only about 1 in 15 kids interested.

- Rules and regulations make it harder to have young people come out fishing or for them to go out themselves – many ohs issues
- Lack of engagement with TSI in the R&D process
- Limited TSI input to SAC
- Want to have more involvement in the R&D process – more than just doing the grunt work -
- Quota not suitable for cultural fishing practices in the TSI
- The representative process is weak. Move away from Community Fisher Group to the IFAC process – created internal and external threats and social issues. Using a Canberra based approach instead of a community approach to representation.

Appendix 4. Data Sheets for Each of the Issue Identified in the Component Tree Showing the Calculated Risk Value and Supporting Information.



GOVERNANCE: LEGAL INSTRUMENTS

WHEN the participants began to discuss legal instruments it was felt that it was more appropriate to break it down into the following sub-components:

- Treaty
- Torres Strait Fisheries Act 1984
- Native Title
- EPBC Act
- Draft TRL Fisheries Management Plan

TREATY

What are the risks (potential impacts) of the TREATY:

1. Treaty is an acknowledgment of the rights of Torres Strait Islanders
2. Free and unrestricted movement into Torres Strait, particularly in western zone
3. Lack of adherence to cultural protocols
4. Tensions between fishing for subsistence v commercial activities
5. Sustainability concerns
6. Inadequate compliance and unclear roles and responsibilities between AFMA and Qld Boating and Fisheries Patrol

	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue				4 x 3 =12	
Major					
Extreme					

SUPPORTING INFORMATION

- Treaty is an international agreement and acknowledgement of fisheries rights
- Too free movement into TSI and visitors not always adhering to protocols
- Rights of Papuans are undefined, lack of communication to ensure the details of the Treaty are adhered to
- Lack of management arrangement that visitors must abide by.
- Commercially fishing for resources - unsustainable fishing.
- Need for compliance, no one has been clearly given that role – treaty is an international agreement so Agency has responsibility to enforce it
- Communities have compliance officers but not seen as their role to enforce treaty arrangements as to resource access
- Leading to some levels of conflict between families.

TORRES STRAIT FISHERIES ACT (TSFA) 1984

What are the risks (potential impacts) of the TSFA:

1. Lack of consistency between Treaty and TSFA objectives
2. Objectives based on MSY and the commercial outcomes
3. Lack of certainty arising from Ministerial powers to change rules

	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					
Major					4 x 5 = 20
Extreme					

SUPPORTING INFORMATION

- TSFA mirrors aspects of the treaty objectives but adds additional ones that diminish the intent of the Treaty from a Torres Strait Islander perspective
- Torres Strait Islander do not support fishing at levels that increase pressure on stock (e.g. at MSY) as this doesn't take into account the regional and cultural needs of the community
- The ability to have amended or new rules implemented without notice dramatically impacts the community.

NATIVE TITLE ARRANGEMENTS

What are the risks (potential impacts) of the NATIVE TITLE ARRANGEMENTS:

1. Native Title decision gives TSI great power
2. Confusion around the rights and details and resources and capacity to ensure that full rights are explored
3. PBC inadequately supported for consultation
4. The individual applications initially made that were aggregated under the one Native Title claim need to be addressed.

	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue			3 x 3 = 9		
Major					
Extreme					

SUPPORTING INFORMATION

- Although the Native Title decision is a good instrument unpacking the details and what the decision fully means has not been done well
- There is confusion around the rights and details, especially how this relates to the original group of claims that were aggregated
- PBC is without resources to sustain adequate communication for consultation – without support they cannot fully deliver (or even partially) for Native Title holders.

ENVIRONMENTAL PROTECTION AND BIODIVERSITY CONSERVATION (EPBC) Act

What are the risks (potential impacts) of the EPBC ACT:

1. Should be a positive as it acknowledges the needs of indigence people and the ecological impacts
2. Indigenous people have yet to be engaged in the process as focus is on target, non-target species, bycatch and TEP species and the physical and biological environment minus humans.
3. Future assessments for WTO must engage with TO.

	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue			3 x 3 = 9		
Major					
Extreme					

SUPPORTING INFORMATION

- Indigenous engagement and input is very weak (or non-existent) in the WTO assessments
- Indigenous people's role in the ecosystem is not adequately considered, particularly ensuring that impacts do not diminish the potential to meet the needs and aspirations of future generations of Torres Strait Islanders
- New DAWR Guidelines seem to focus on the quantitative ecological measure aspect of ESD rather than consider the qualitative approach put forward by Fletcher et al.

Draft TRL Fisheries Management Plan

What are the risks (potential impacts) of the DRAFT TRL FISHERIES MANAGEMENT PLAN:

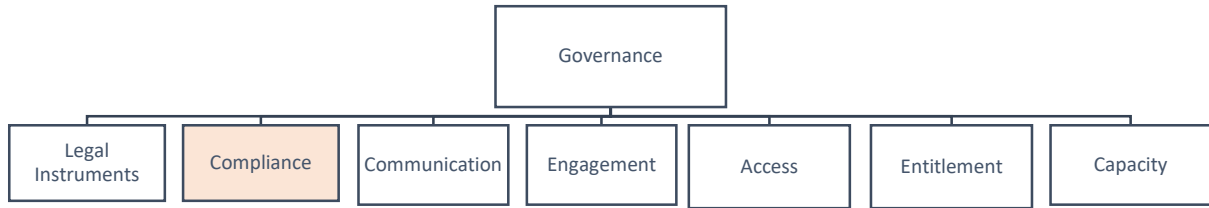
1. Native title rights are diminished as activities are restricted and proposed management arrangements are inconsistent with Native Title rights
2. Impacting on current and future generations as measures endorse non indigenous access and rights
3. TIB would be forced outside traditional cultural practices to comply and be economically viable
4. Lack of acknowledgment of range of international instruments that Australia has signed up to, e.g. Clause 7.6.6 of the FAO Code of Conduct for Responsible Fisheries
5. Consultation practices do not align with Torres Strait Islander cultural roles and responsibilities.

	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					
Major					
Extreme					5 x 5 = 25

SUPPORTING INFORMATION

- Impedes on native title right by applying restricted by season, size limits, methods, areas to fish
- Quota is inconsistent to rights in Native Title decision as it takes away inheritance, ownership, management

- Providing quota entitlements to non TIB fishers weakens Torres Strait Islanders Native Title rights
- Loss of access leads to inter-generational consequences as younger people can't get easy access to the resources to make a living making and stopping transfer of knowledge.
- Pushing communities to access welfare – too difficult to start in TRL fishing, people go on the dole, get bored, disconnected, not motivated
- Forcing TIB to go outside Traditional cultural practices to operate
- Consultation processes do not align with cultural protocols and responsibilities
- Inadequate recognition is given to the traditional practices, needs and interests of Torres Strait Islanders and associated communities which are highly dependent on fishery resources for their livelihood.



COMPLIANCE

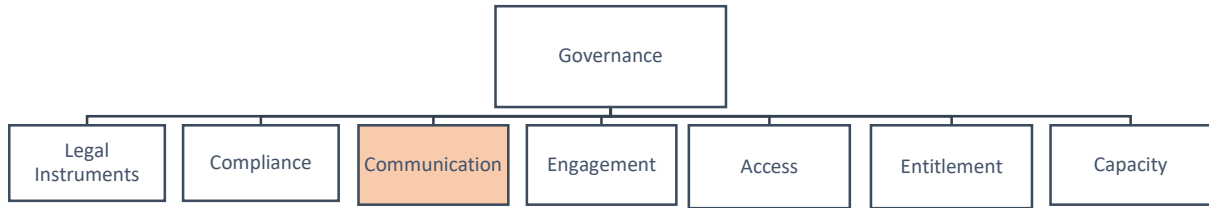
What are the risks (potential impacts) of COMPLIANCE:

1. Lack of compliance seen by communities
2. Lack of community involvement or engagement
3. Breakdown in cultural

	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					
Major					5 X 4 = 20
Extreme					

SUPPORTING INFORMATION

- Indonesian boats and Illegal vessels traversing through communities and also going fishing
- Relying on word of mouth with no resources to undertake compliance
- People ring hotline but nothing happens.
- 10 patrol a year through the whole Torres Strait
- Governance issue between agencies in respect to roles and responsibilities – Cwlth and Qld (foreign v domestic compliance),
- Commercial compliance is not being attended to – closures, boundaries, foreign vessels
- Lack of compliance officers leads to a culture of non-compliance



COMMUNICATION

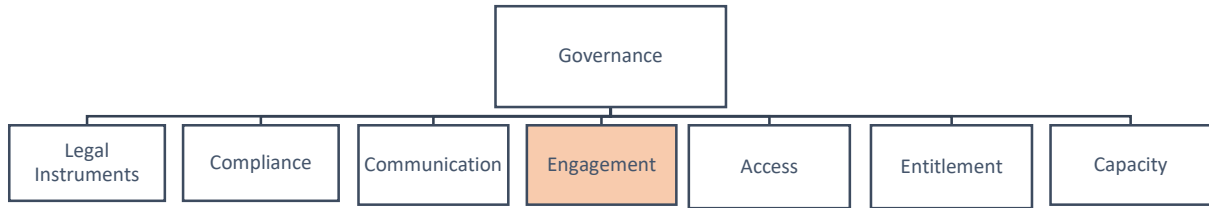
What are the risks (potential impacts) in COMMUNICATION:

1. Fisheries not communicating or consulting with communities effectively
2. Not being consulted in culturally appropriate manner
3. Not being listened to when asked to communicate
4. Full disclosure of information during meeting/discussions – transparency
5. Not given the right tools to communicate
6. Poor timing means fishers etc can't be around to meet (e.g. 1st day of season)
7. Not having clarity and consistent understanding around rights
8. Not being given the evidence or results from research
9. TO concerns not being addressed or picked up in drafting legislation - disregarded
10. Cluster groups not being resourced – should go back to island Working Groups as more culturally appropriate (and resource them).

	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					
Major					5 x 4 = 20
Extreme					

SUPPORTING INFORMATION

- Meetings often at inappropriate times or in a culturally inappropriate manner, e.g.:
 - start of the season.
 - islands shut down after Sorry Business
 - meeting processes and representative structures
- Not given the tools to appropriately communicate.
- Constantly changing staff in Department - so representatives constantly need education
- Not given full disclosure, Agencies take the positive outcomes that suit them and when TSI raise problems are told they are hindering the process
- No transparency in consultation, community having to work through documents to find potential restrictions – having to read between the lines
- Never told rights – legal protection under native Title and Treaty
- Told one thing and then you do it they don't take responsibility for their part.
- TSI representatives are used by Agencies to tick boxes for consultation – people then get targeted by the community because the process is inappropriate – Cluster v WG approach
- Lots of 'consultation' but voice not going past the room, not in documents, not in actions



ENGAGEMENT

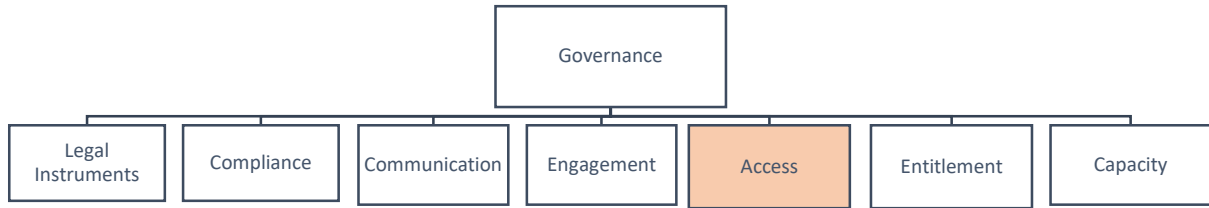
What are the risks (potential impacts) of poor ENGAGEMENT:

1. Token engagement, without being open, understanding or valuing TOs input
2. Inappropriate engagement expecting people to speak for other people’s country
3. Lack of transparency, withholding of key facts
4. Not listening to the message being given
5. Repeated consultation about the same thing
6. Running meetings during work day and inappropriate hours
7. Being pressured to yes or no at meetings on behalf of TOs – outside cultural protocols

	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					
Major					5 x 4 = 20
Extreme					

SUPPORTING INFORMATION

- Communication and engagement linked.



ACCESS/ALLOCATION

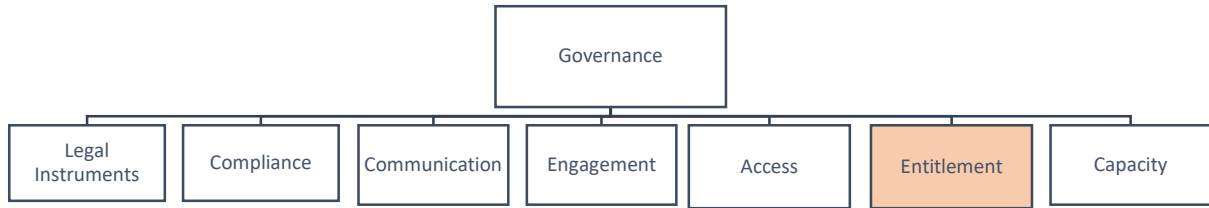
What are the risks (potential impacts) of poor ACCESS AND ALLOCATION:

1. Inappropriate level of TAC set too high
2. TAC not distributed appropriately – should be 100% to TOs
3. Distance travelled by TOs to access the resources has increased due to localised depletion
4. Lack of recognition of cultural boundaries – not embedded in legislation
5. TVH and recreational fishers anchoring in wrong areas - cultural and environmental
6. Competitive advantage for bigger boats
7. Cycle of poverty due to increased rules and regulations on TOs.

	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					
Major					5 x 4 = 20
Extreme					

SUPPORTING INFORMATION

- TVH and recreational fishers permitted to anchor on significant areas for the community
- TVH and recreational fishers permitted to anchor on significant environmental areas
- TAC being set to high in the views of TOs and that the level is influenced by politics and large industry players
- Some gear increases the depletion of stocks close to communities
- Wanting industry restrictions in spawning grounds and sensitive areas
- Use of hookahs make outsider fishers too efficient and impacts traditional access and disrespects cultural protocols
- Currently 12 TVH licences share 47% and all TIB 53% - TAC should be 100% TO ownership with no limits on number of operators
- System or instruments set up to protect TVH interests and disadvantaging the TIB and local TO population.
- TVH fishing effort is inappropriate on traditional country.



ENTITLEMENT

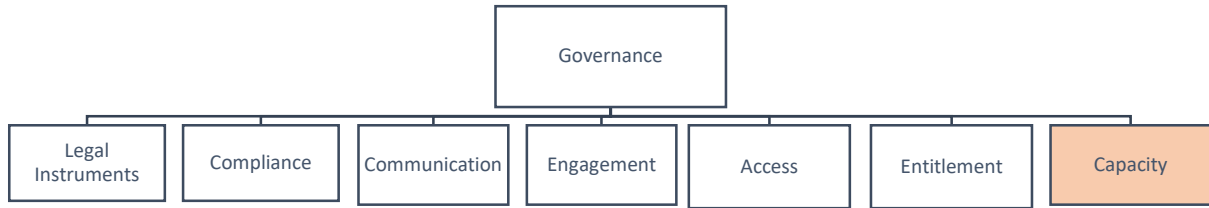
What are the risks (potential impacts) to inadequate recognition of ENTITLEMENT:

1. Native Title/Treaty should provide protection to TOs in undertaking their cultural activities
2. TVH entitlements prevent TIB taking all the catch they want or require
3. No appropriate management plan/instrument for TRL.

	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue				4 x 3 = 12	
Major					
Extreme					

SUPPORTING INFORMATION

- Native Title determination and the Treaty are positives to provide protections and validation for rights or first rights on country
- The two define the people they protect differently - Traditional Inhabitants for the Treat and TOs for Native Title
- Need clarity around rights under Treaty and Native Title
- TVH can fish above their % share because of no management plan
- TVH use hookahs so effort can be concentrated and intense.



CAPACITY

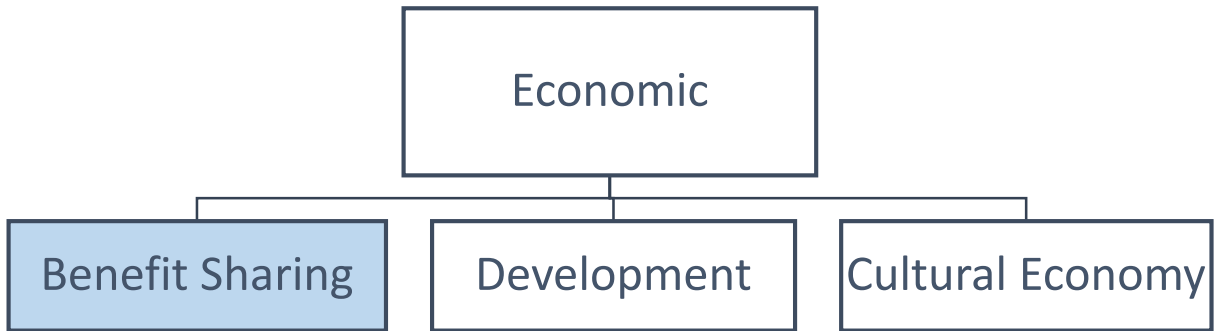
What are the risks (potential impacts) to inadequate CAPACITY:

1. Not fully understanding rights under the Native Title Act/National and International/Legislation
2. Not fully understanding the scientific information or management process
3. No support and information for representatives and community when participating in consultative processes
4. Agencies don't have capacity to engage in a culturally appropriate manner.

	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					5 x 3 = 15
Major				4 x 4 = 16	
Extreme					

SUPPORTING INFORMATION

- No training for TOs to fully contribute to consultation
- Agency expecting TO representatives to be at their levels but representatives haven't been provided training to understand Agency worldview – may not understand the concept that the question is about
- Consultation processes run counter to worldview and inappropriate – representatives expected to make decisions on behalf of others without full community consultation
- Pressure from Agencies on representatives to make instant decisions - culturally elder makes decision.
- Rarely more than one representative has been skilled - means that one person at a time fully (partially) understands and they are expected to talk for thousands
- Support to raise capacity in areas the Agency deems necessary - reality is that tools that are vital for representatives to learn to contribute successfully and not resourcing them to consult internally are being overlooked.



BENEFIT SHARING

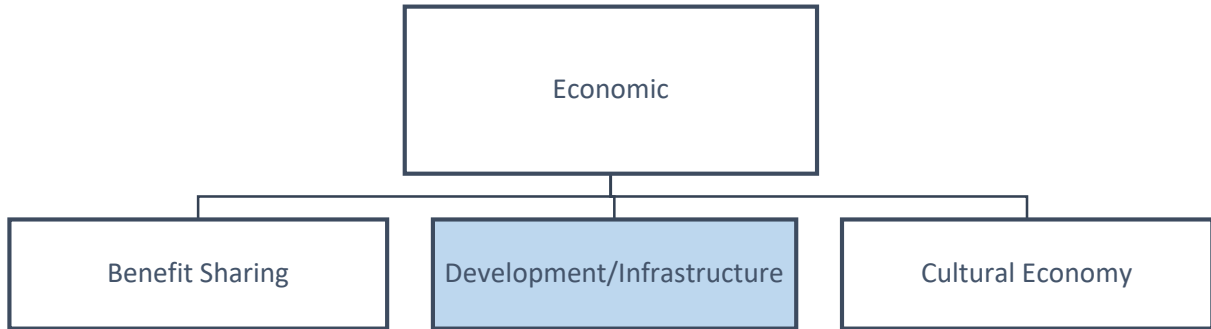
What are the risks (potential impacts) of inadequate BENEFIT SHARING:

1. Not gaining sufficient benefits for sharing of their resource
2. Unequal share of resources
3. TVH not investing in local communities
4. Cost of fishing licences (TVH/TIB) does not reflect difference in fishing operation/harvest rates

	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue			3 X 3 = 9		
Major					
Extreme					

SUPPORTING INFORMATION

- TSI want 100% ownership process put in place
- Majority of profits going south
- Multimillion dollar fishery
- TVH not investing in local community



DEVELOPMENT/INFRASTRUCTURE

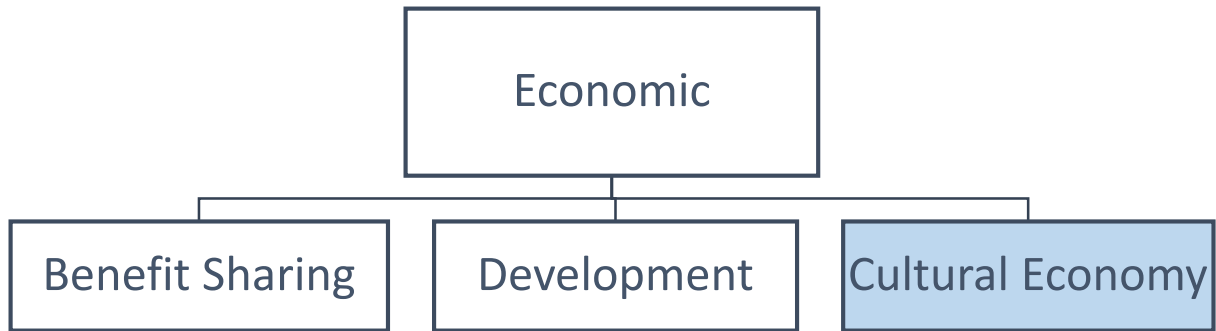
What are the risks (potential impacts) on DEVELOPMENT/INFRASTRUCTURE:

1. Other stakeholder pressure reduces ability of TIB fishers to operating in line with cultural practice – have to change practices to compete
2. Reallocating catch to TVH/Papuans
3. Lack of onshore supporting infrastructure
4. Holding live product in homemade cages
5. Lack of outboard mechanics, welders, fibreglassers etc in communities

	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					5 x 3 = 15
Major					
Extreme					

SUPPORTING INFORMATION

- TVH pressure fishers to fish outside cultural boundaries, by shadowing TIB on regular dives and harvesting earlier in the day from the same locations as they have larger vessels (TIB commute daily)
- TVH utilise infrastructure so very little is available
- TVH operate on a larger scale, have devised a way to process on boat or out of the Torres Strait - mean TS Islanders lost jobs and infrastructure
- Local mechanics, welders and fibreglassers were all once supported by the whole industry – now being outsourced into Qld etc
- Lack of close infrastructure and distance need to access good fishing grounds, TIB are forced to hold stock in homemade cages until transport and good catch numbers are reached before delivering to market
- TIB are reliant on other fishers to pool catch to split transport fees.



CULTURAL ECONOMY

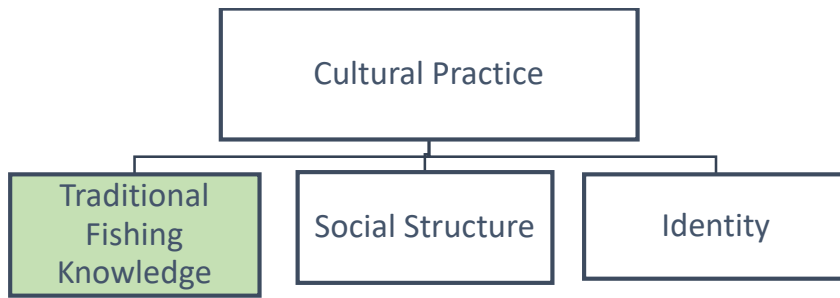
What are the risks (potential impacts) on the CULTURAL ECONOMY:

1. TRL not as readily available for trade and barter within local communities
2. People are going to the Supermarket instead of using natural resources
3. Cost of living impacts – having to buy food or pay more for fuel to travel further and freight costs
4. Lack of jobs – no young people coming into the industry
5. Harder to support cultural obligations.

	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					
Major					X
Extreme					

SUPPORTING INFORMATION

- Communities are now asking for loans instead of fishing when providing for cultural activities
- Communities catching other species which may be against cultural protocol to get a feed for community
- Lack of ready access impedes cultural practice - it use to support community initiatives, dance groups travel and maintenance
- Laws and other stakeholder fishing activities make it harder for young people to go fishing – rules and costs.



TRADITIONAL FISHING KNOWLEDGE/MANAGEMENT

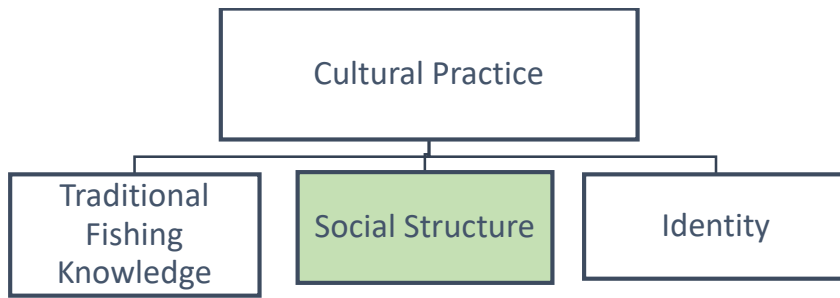
What are the risks (potential impacts) on TRADITIONAL FISHING KNOWLEDGE/MANAGEMENT:

1. TFK/TFM not being acknowledged or used in management documents
2. Restrictions on being able to undertake or transfer cultural practices and traditional knowledge
3. Not having access to the places to undertake cultural activities
4. Intergenerational knowledge transfer reduced
5. TFK/TFM consistently provided to Agencies in consultation but not heard or acted upon
6. Weakening of TFK/TFM arising from adoption of non-indigenous fishing practices and rules
7. Misappropriation on TFK/TFM
8. Internal and external drivers affecting change

	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					
Major				4 x 4 = 16	
Extreme					

SUPPORTING INFORMATION

- Loss of TFK/TFM because TOs have to abide by two sets of rules
- Technology can be seen as the easier options – youngsters miss out on traditional skills and practice.
- TVH watch TIB traditional areas and mark their spots on GPS
- TVH have bigger vessels so can stay or get there earlier and harvest the resources.
- TFK is now having to be passed on in different locations because the resources are no longer available close to home - it costs more to teach
- Some knowledge is lost - practices are changing because of the internal and external factors.
- External public perception – overfishing locally. Internal – freezes



SOCIAL STRUCTURE

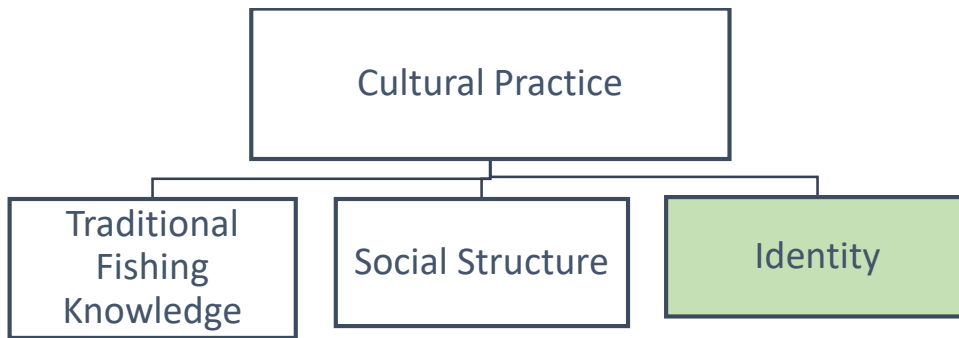
What are the risks (potential impacts) on SOCIAL STRUCTURE:

1. Agencies and non-indigenous fishers not having effective cultural awareness training - not acting respectfully
2. Licences enable fishing anywhere (TVH and TIB)
3. TVH employing local TSI fishers to operate in areas outside their cultural areas
4. Community standing of divers and families being impacted.

	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					
Major					5 x 4 = 20
Extreme					

SUPPORTING INFORMATION

- Local fishers used by TVH being poorly treated in the community because they are being used to comply with regulations – leads to breakdown of relationships internally
- Community breakdown
- Community members unable to get resources close by - community now relies on TIB and this affects both community and how TIB fishers feel.



IDENTITY

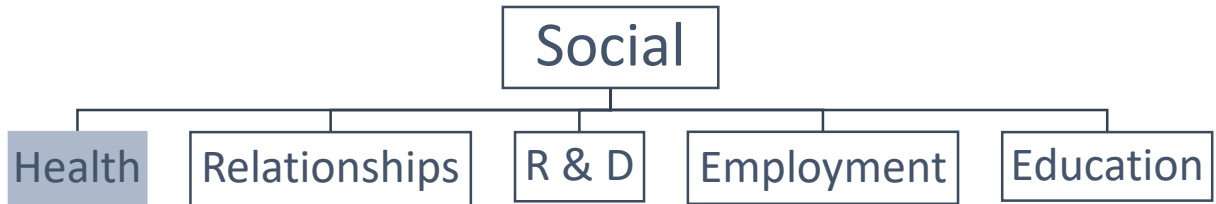
What are the risks (potential impacts) on IDENTITY:

1. Not recognising and understanding TSI connection to country and how it is integral to identity
2. Young people losing their identity.

	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					
Major					5 x 4 = 20
Extreme					

SUPPORTING INFORMATION

- Every chance older TSI get they assert their identity
- Younger generation are losing identity as management requirements are white laws – not traditional
- People not comfortable trying to live in two worlds
- Imposed management arrangements impact on how people feel and behave – having to comply with non cultural laws to take own resource.



HEALTH

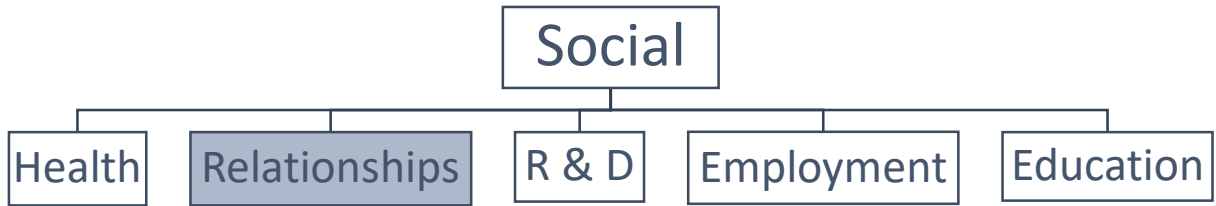
What are the risks (potential impacts) on HEALTH:

1. Physical health – chronic disease, rise in blood pressure, diabetes and obesity, alcohol and drug use
2. Mental health – rise in suicide and people losing identity, depression
3. Spiritual health – fishing for commercial gain rather than sharing to community members

	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					
Major					
Extreme					5 x 5 = 25

SUPPORTING INFORMATION

- Constantly defending and re-asserting identity put pressure on all aspects of health
- Diabetes, blood pressure and obesity are rife
- Chronic diseases are common
- Employment would help mental and physical health.



RELATIONSHIP

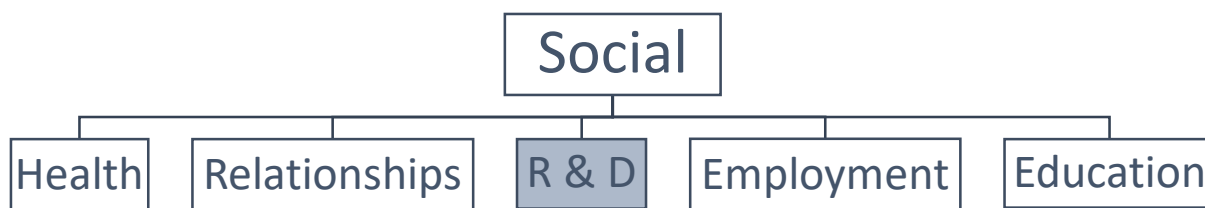
What are the risks (potential impacts) on RELATIONSHIPS:

1. Poor industry relationships between TVH and TIB
2. Poor relationships between Agencies and TSI
3. Lack of transparency within government in dealings with TSI
4. Remote locations have no political sway
5. Broader community perception of how TIB undertake their business
6. Break down on internal cultural management systems and communication systems.

	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					
Major					
Extreme					5 x 5 = 25

SUPPORTING INFORMATION

- No trust, no respect or transparent communication
- TVH being deliberately provocative
- Agencies ill equipped to talk with TSI
- Locals want to apply for TIB licence and need the signature of the Council member on the Island - Council is not the Native Title organisation and this policy causing community relationship division.
- Historically Council was the only body and they owned freezes - PBC's are now the Native Title representatives and councils are not appropriate - legislation hasn't caught up.
- Relationships strained because of different Native Title and Treaty definition.



R&D

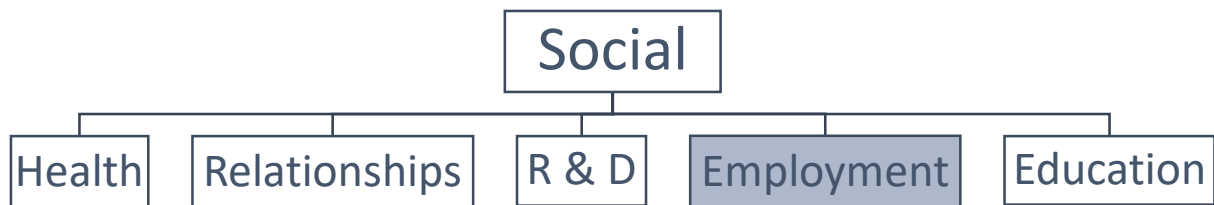
What are the risks (potential impacts) on R&D:

1. Not being involved in development of priorities to ensure community needs are met
2. Not being involved in all research
3. Being involved in some practical elements, but not the entire process
4. Not aware of all research being undertaken and inadequate extension of outputs/outcomes in a culturally appropriate manner
5. Not understanding or trusting the outcomes
6. Not clear about IP protection
7. Not having an avenue to strengthen current research with traditional knowledge
8. R&D not always being used to benefit TOs

	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					5 x 3 = 15
Major					
Extreme					

SUPPORTING INFORMATION

- Request research to address traditional and resource needs but little happens
- Are told what being researched but don't get the results
- Aspired to be involved in research for traditional development for a decade - there are blockages
- Only recognised western methods are accepted for Torres Strait policy makers - local knowledge deemed as invalid not fundable
- IP protection not given where needed.



EMPLOYMENT

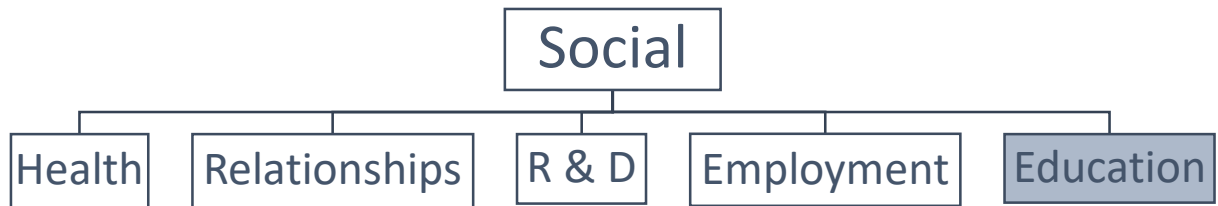
What are the risks (potential impacts) to EMPLOYMENT:

1. Lack of employment options for TSI
2. Competition from TVH
3. Welfare cycle
4. Work for the dole programmes – limit ability to work. – can’t always go fishing under rules

	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					X
Major					
Extreme					

SUPPORTING INFORMATION

- Fisheries is the key to the Torres Strait
- People undertake illegal activities as there are no employment options
- TIB licence numbers continuing to decline
- My Pathways don’t let people fish as they need to sign on and off in business hours and work certain hours – limit ability to work as can’t always go fishing under rules
- Health and safety and issue make people see welfare as best way
- Expenses to go TRL fishing too high for many people.



EDUCATION

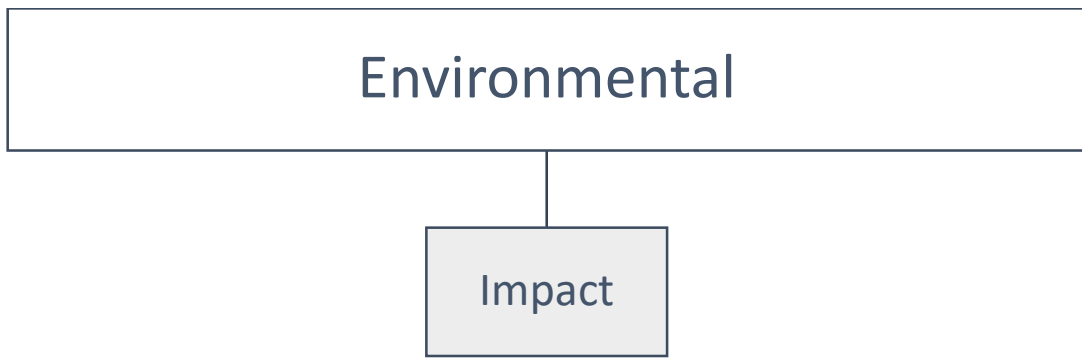
What are the risks (potential impacts) to EDUCATION:

1. Not earning enough to sustain children away getting an education
2. Hard to keep children here as no guarantee of future in fishing industry
3. Inadequate local higher education/VET training in TSI.
4. Extra costs to undertake local training – difficulty to source funding and people

	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					
Major				X	
Extreme					

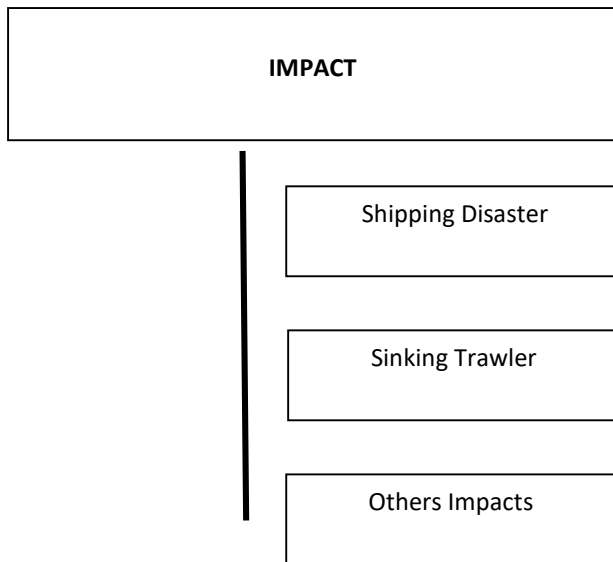
SUPPORTING INFORMATION

- Fishing is best opportunity for people to be employed in regions
- Hard to keep children in TS as very limited employment
- Need enough money to provide for kids through university
- Reliant on profitable fisheries to sustain children education - three times more expensive because of remoteness.
- Children can lose cultural connectivity as they need to go away to get higher level education



A range of impacts was included under the overarching Sub Component – ENVIRONMENTAL. However, when the workshop started to unpack the various components it was felt that it was more appropriate to break them down into sub sub-components, i.e.:

- Shipping disaster
- Sinking trawler
- Overharvesting, ghost fishing, rubbish dumping



ENVIRONMENT

What are the risks (potential impacts) from SHIPPING DISASTER:

1. Shipping disaster/oil or chemical spill.

	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					
Major					
Extreme			5 x 3 = 15		

SUPPORTING INFORMATION

- The ecological impact from a shipping disaster could destroy the TS environment
- TSI rely on the environment for their food and cultural identify
- Shipping is increasing
- No one monitors activities

ENVIRONMENT

What are the risks (potential impacts) from SINKING TRAWLERS:

1. Sinking trawlers
2. Trawlers running aground

	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					
Major					
Extreme				5 x 4 = 20	

SUPPORTING INFORMATION

- Trawlers are sinking regularly 4 in 6 years
- Disabled trawlers drift onto reefs and on to the shores in big tides
- No one seems to take responsibility for sunk or disabled trawlers.

ENVIRONMENT

What are the risks (potential impacts) to the OTHER ENVIRONMENTAL IMPACTS:

1. Non-TIB fishers are overharvesting or concentrating effort in local areas
2. Ghost nets and abandoned fishing gear
3. International rubbish (shipping channel)
4. Rubbish dumping by Australian fishers
5. Damage to environment and reefs - fishing grounds, anchors, trawl gear

	Very unlikely	Unlikely	Probably	Likely	Certain
No impact					
No big deal					
An issue					
Major					5 x 4 = 20
Extreme					

SUPPORTING INFORMATION

- Fishing activity takes place too close to communities making it harder to catch TRL
- Fishing take place in cultural sensitive and/or ecologically important areas
- Ghost gear impacts a range of species and this spiritually impacts TSI people
- Some areas have massive amounts of international rubbish – brought by wind, currents, tides and illegal dumping at sea
- Some Australian fishers dumped gear and rubbish at the end of season and when anchored up
- Anchors and gear damaging special culturally and ecologically important areas.