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

FRDC PROJECT NO 2014/233

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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.



We acknowledge the Traditional Owners of Country throughout Australia and recognise their continuing connection to land and water.

We pay our respects to their Elders past, present and emerging.

FRDC-IRG funded projects use ethical methodologies and take place on Country with the consent of Traditional Owners.

This summary booklet was prepared by Leila Alkassab and Hanna Gallagher of Land to Sea Consulting Pty Ltd. as part of FRDC-IRG project 2018-183 'Identifying and synthesising key messages from projects funded by the FRDC Indigenous Reference Group.'

Artwork by Beau Pennefather Motlop

Background

In 2011 the Fisheries Research and Development Corporation (FRDC) sponsored a national Indigenous fisheries forum to discuss and identify issues impacting the involvement of Indigenous people in Australia's fisheries. An Indigenous Reference Group (IRG) then collated this work and developed a set of research priorities to guide research, development and extension.

These research priorities were subsequently endorsed in 2012 by the original national forum. Using these research priorities the FRDC-IRG have supported a number of projects focused on Aboriginal and Torres Strait Islander fisheries.

1 PRIMACY FOR INDIGENOUS PEOPLE

Indigenous people have certain recognised rights associated with and based on the prior and continuing occupation of country and water and activities (e.g. fishing, gathering) associated with the use and management of these.

3 SELF DETERMINATION OF INDIGENOUS RIGHTS TO USE AND MANAGE CULTURAL ASSETS AND RESOURCES

Indigenous people have the right to determine courses of action in relation to use and management of aquatic biological resources.

5 CAPACITY BUILDING OPPORTUNITIES FOR INDIGENOUS PEOPLE ARE ENHANCED

Indigenous people have the right to access capacity building activities to further their aspirations in the use and management of aquatic biological resources..

2 ACKNOWLEDGEMENT OF INDIGENOUS CULTURAL PRACTICES

Indigenous people have the right to maintain and develop cultural practices to address spiritual, cultural, social and economic needs associated with aquatic resources and landscapes.

4 ECONOMIC DEVELOPMENT OPPORTUNITIES ARISING FROM INDIGENOUS PEOPLES CULTURAL ASSETS AND ASSOCIATED RIGHTS

Indigenous people have the right to engage in economic activity based on the use of traditional aquatic biological resources and/or the right to share in the benefits derived from the exploitation of aquatic biological resources.

About the project...

This project was developed to begin work on two elements embedded in the Indigenous fisheries RD&E priority areas:

PHASE 1

The legislation and policy framework potentially impacting Indigenous fisheries

PHASE 2

Assessing the impact of non-Indigenous fisheries on Indigenous cultural fishing

Phase 1

Audit of Fisheries Legislation, Policy and Management Strategies

The audit comprised an identification and collation of references to Indigenous fisheries in legislation, policy and management strategies across all jurisdictions in Australia. Each identified reference was compared to each of the seven NIFTWG principles developed in 2004 (1). The comparison involved a subjective assessment of the degree of inclusion of the principle in the reference.

1. National Native Title Tribunal 2004, Fishing principles to guide Indigenous involvement in marine management, The Principles Communiqué on Indigenous Fishing, <https://www.atns.net.au/agreement.asp?EntityID=3797>



What they found...

A total of 669 government documents were located and examined comprising:

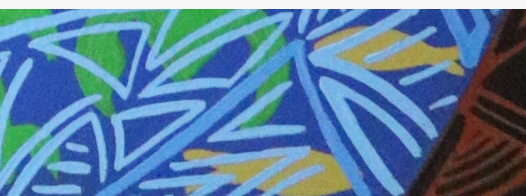
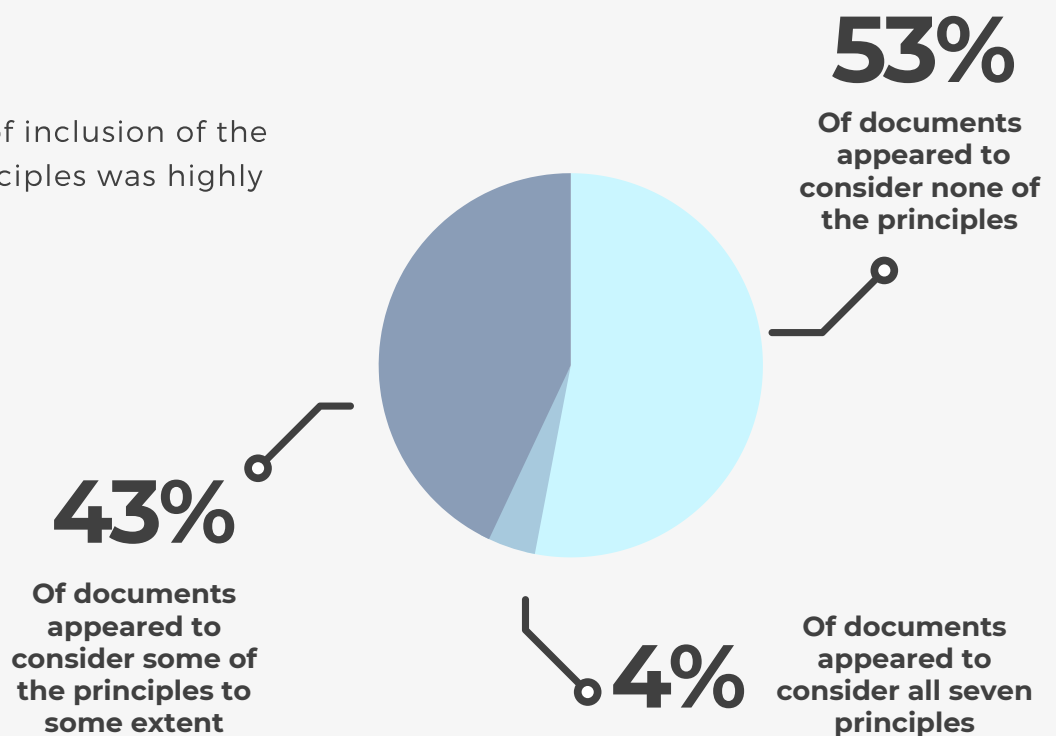
21 PIECES OF LEGISLATION

56 POLICY DOCUMENTS

148 PLANS/ STRATEGIES

444 ESD SUBMISSIONS

The degree of inclusion of the NIFTWG principles was highly variable.



FISHERIES LEGISLATION

There was some variation in the degree of inclusion of NIFTWG Principles across the the various jurisdictions with some appearing to address many of the principles especially through a combination of both Acts and Regulations.

A little more than half of the jurisdictions made it a requirement for Indigenous involvement in management through advisory committees.

None of the legislation audited contained provisions for the protection or use of Traditional Fishing Knowledge.

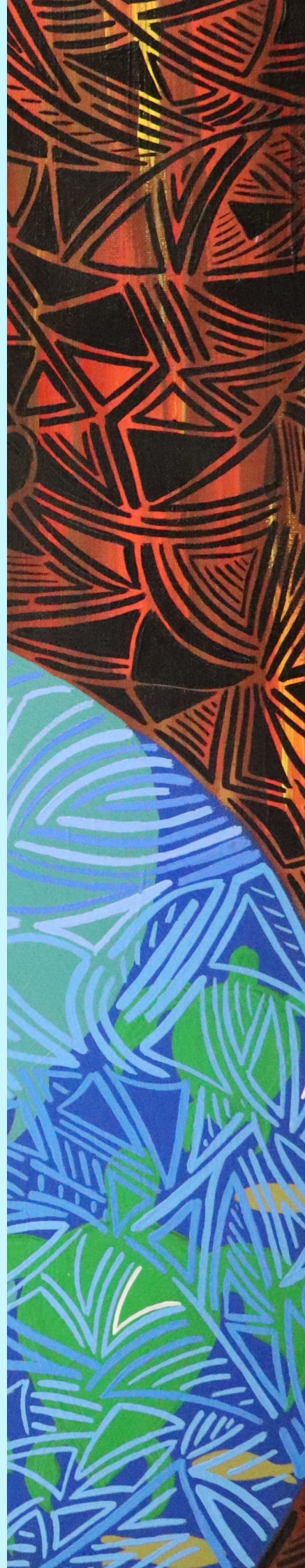
FISHERIES POLICIES

Fifty-two percent of the 56 policy documents made some reference to Indigenous fisheries. This ranged from all seven principles seemingly addressed in at least three documents to zero addressed in at least 27 documents.

Victoria referenced all seven NIFTWG Principles in three of its six policy documents.

FISHERIES PLANS AND STRATEGIES

148 fisheries plans and strategies were analysed. 30% of these made some reference to Indigenous fisheries.



ECOLOGICALLY SUSTAINABLE DEVELOPMENT SUBMISSIONS FOR ASSESSMENT UNDER THE EPBC ACT

The Environment Protection and Biodiversity Conservation Act 1999 (the EPBC Act) requires all fisheries with an export component be assessed for ecologically sustainability. Guidelines for the Ecologically Sustainable Management of Fisheries were developed by the Commonwealth to assist each jurisdiction to meet the requirements under the EPBC Act.

444 submissions for assessment covering 142 commercial fisheries were examined and 87% contained some reference to Indigenous fisheries. However, many of the references simply noted the lack of data available on Indigenous fisheries whilst assuming that the Indigenous take was negligible.

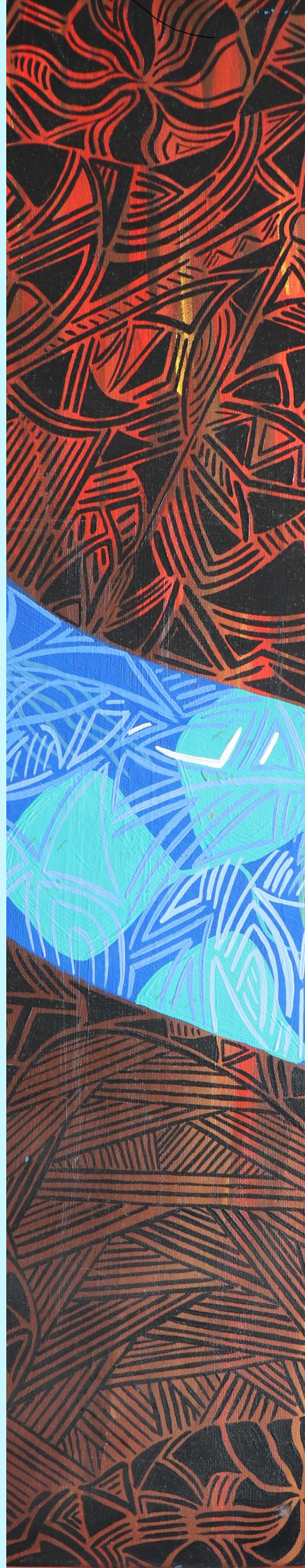
46% of the submissions made reference to Indigenous fisheries that appeared to address the NIFTWG principles.

There was little to no mention of the need for data on the impacts of non-Indigenous fisheries on Indigenous fisheries. This presents a gap in the Commonwealth guidelines which requires the recognition of the role of Indigenous people in the conservation and ecologically sustainable use of Australia's biodiversity.

ASSESSMENT OF METHODOLOGY

The use of the NIFTWG principles to examine documents proved somewhat useful however the lack of clarity and the seeming overlap between some of the principles made subjective assessment problematic.

The omissions from the principles of the need to protect Traditional Ecological Knowledge and the need to assess impacts on Indigenous fisheries are two large gaps that need to be addressed if the principles are to serve as guidance for the development of future policy.





Recommendations...

- 1 The Commonwealth in conjunction with other jurisdictions revise the NIFTWIG principles so as to provide a fuller and clearer guidance on the development of future Indigenous fisheries policy.
- 2 All fisheries legislation be reviewed and revised to include:
 - An object addressing Indigenous cultural fishing,
 - Provisions for establishing Indigenous fisheries advisory committees.
 - Provisions to identify, measure and address impacts of non-Indigenous fisheries on Indigenous fisheries.
 - Provisions to protect and enhance Traditional Fishing Knowledge
- 3 The Commonwealth's Ecologically Sustainable Development guidelines be revised to include a requirement for the assessment of the impacts of non-Indigenous fisheries on Indigenous cultural fishing.
- 4 Innovative models be developed that provide Indigenous people with access to commercial fishing opportunities.
- 5 Models for allocating Indigenous catch be developed based on a proportion of the total fishable biomass.



Conclusions...

All jurisdictions still have some way to go in legislation and policy provisions that ensure that Indigenous fisheries are fully protected and supported.

Traditional Fishing Knowledge is still not protected nor supported under fisheries legislation even though there is a requirement under the EPBC Act for the protection of Traditional Ecological Knowledge.

The impacts of non-Indigenous fisheries on Indigenous cultural fishing practices are still not assessed adequately in any jurisdiction.

Jurisdictions should be developing more focussed fisheries strategies in support of Indigenous rights especially in relation to:

- Allocation of catch.
- Access to commercial fisheries opportunities.
- Engagement in fisheries management.
- Capacity building for management.

Indigenous Fisheries Risk Assessment

The aim of Phase 2 of this project was to run a series of case study workshops aimed at trialling an Ecologically Sustainable Development risk assessment framework developed by Fletcher et al. (2002)* as a means to assess non-Indigenous impacts on Indigenous fisheries.

The research team wanted to explore the adequacy of using an Indigenous Community Wellbeing Component Tree in Ecologically Sustainable Development fisheries risk assessment.

Four case study workshops were undertaken.

1. National workshop in Cairns (QLD)
2. Moruya (South Coast NSW)
3. North Stradbroke Island (South East QLD)
4. Horn Island (Torres Strait Islands)

During the workshops the project team collected data relating to risk assessment management while also providing information and capacity building on the risk assessment methodology. This provided benefit to both researchers and to the community.

*Fletcher, W. J., Chesson, J., Fisher, M., Sainsbury, K. J., Hundloe, T., Smith, A.D.M. and Whitworth, B. (2002) National ESD Reporting Framework for Australian Fisheries: The 'How To' Guide for Wild Capture Fisheries. FRDC Project 2000/145, Canberra, Australia, 120 pp.

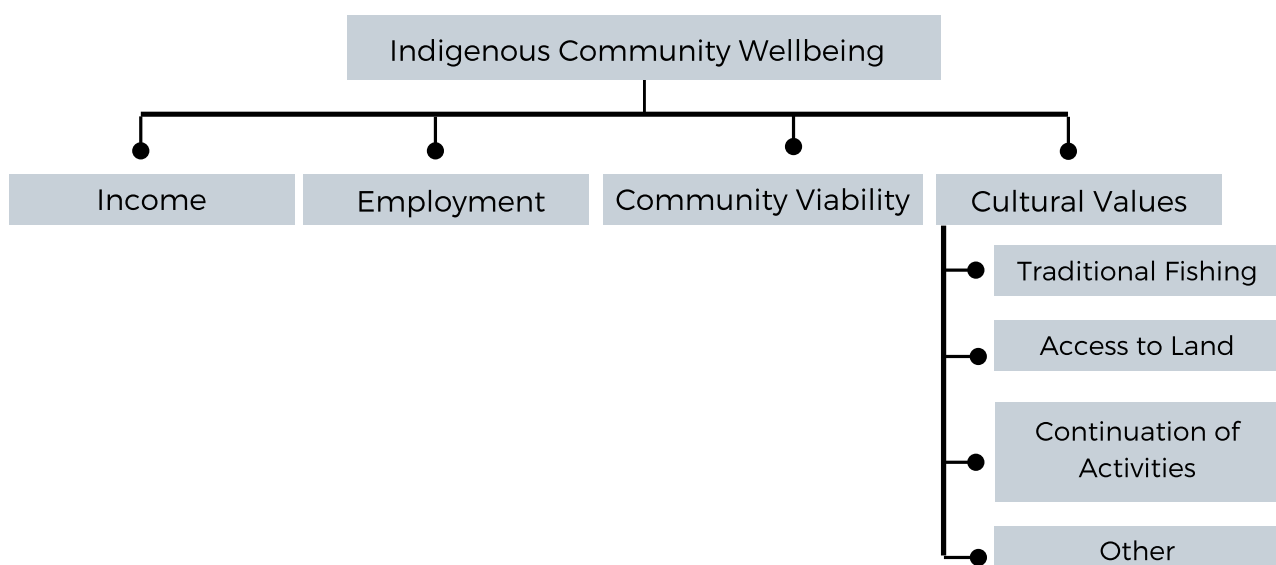
Fletcher's ESD Risk Assessment Framework...

Indigenous Community Wellbeing

Fletcher et al. (2002) developed a 'how to guide' for a national reporting framework to ensure wild capture fisheries in Australia would be managed according to Ecologically Sustainable Development principles. They also a generic component tree to help identify what aspects of Indigenous Community Wellbeing might be impacted by a fishery (Figure 2.2).

The framework considered Ecologically Sustainable Development in terms of the three broad categories, ecological wellbeing, human wellbeing and ability to contribute. Indigenous Community Wellbeing was one of the eight major components of Ecologically Sustainable Development identified by Fletcher et al. (2002).

Figure 2.2 Fletcher's generic component tree for Indigenous Community Wellbeing





What they found...

There was a similarity in the types of issues identified at each workshop. This could reflect common experiences of Indigenous peoples in Australia and the imposition of culturally insensitive management arrangements in the fisheries.


Indigenous Community Wellbeing Component Trees for all of the three regional case studies had the same second level subcomponents:



There was a heavy emphasis on the impact of non-Indigenous governance and management arrangements that influence the ability of Indigenous peoples to maintain access to their fisheries. These governance and management issues were identified in all of the workshops pointing to a possible need to add this as a component in the original tree developed by Fletcher et al. (2002).

Concerns were also raised about the importance of maintaining cultural practice and the right to derive economic benefit from fisheries resources on ones' country. There was a high proportion of risk rankings in the extreme category especially for the workshops in Moruya and North Stradbroke Island.

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.



Recommendations...

- 1 At least three more regional Indigenous risk assessment workshops could potentially validate common issues identified by Indigenous fishers.
- 2 Indigenous risk assessment workshops to be expanded to allow time for capacity building with participants.
- 3 Future risk assessments that use Fletcher et al. (2002) approach of five levels of consequence and five levels of likelihood could be reduced to three.
- 4 The approach used in this project and its findings were such that other jurisdictions could adopt these as a basis for future Indigenous risk assessments of fisheries management plans.

Conclusions...

A flexible approach involving brainstorming of ideas with Indigenous participants worked well in involving workshop participants. It was also beneficial in helping to relieve tensions that can exist in Indigenous community workshops around fisheries issues.

For the benefit of community participants, the project team suggests that the risk value determinations could be reduced from five to three to make it easier to understand and navigate.

Participants gained a better understanding of basic fisheries management methods and were able to use their workshop reports as a basis for submissions to other fisheries management processes.

