

CONSULTATION | FISHERIES MANAGEMENT ACT 1994

Summary of proposed changes to the *Fisheries Management Act 1994* relevant to Aboriginal fishing

May 2015

Purpose

The purpose of this paper is to summarise proposed amendments to the *Fisheries Management Act 1994* of particular relevance to Aboriginal fishing for targeted consultation. Similar papers have been prepared for the commercial, recreational and charter fishing sectors, with an additional paper covering environmental and other matters of potential interest to all stakeholders.

Other papers and draft Bill

All papers in this series are available on the NSW Department of Primary Industries (the Department) website at: www.dpi.nsw.gov.au/fisheries. Following is an overview of the papers available:

Commercial fishing stakeholder paper	Summarises proposed amendments of particular relevance to the NSW commercial fishing industry, including amendments to facilitate the implementation of a wide variety of reforms pursuant to the Independent Review of NSW Commercial Fisheries Management, Policy and Administration. The paper is titled " <i>Summary of proposed changes to the Fisheries Management Act 1994 relevant to the NSW commercial fishing industry</i> ".
Recreational fishing stakeholder paper	Summarises proposed amendments of particular relevance to the recreational fishing sector, including amendments relating to bag limits, possession limits, consultation and managing/monitoring catches. The paper is titled " <i>Summary of proposed changes to the Fisheries Management Act 1994 relevant to recreational fishing</i> ".
Charter fishing stakeholder paper	Summarises proposed amendments of particular relevance to the recreational charter fishing sector including amendments to facilitate reforming the current licensing/transfer arrangements and online transactions. The paper is titled " <i>Summary of proposed changes to the Fisheries Management Act 1994 relevant to the NSW charter fishing industry</i> ". Charter operators are also likely to be interested in the matters set out in the recreational fishing paper above.
Aboriginal fishing stakeholder paper	Summarises proposed amendments of particular relevance to the Aboriginal fishing sector including the establishment of an Aboriginal Fishing Trust fund.
Environmental and other issues paper	Summarises proposed amendments that may be of interest to all stakeholder groups on matters including declared diseases, dredging and reclamation work, as well as noxious fish and marine vegetation. The paper is titled " <i>Summary of proposed changes to the Fisheries Management Act 1994 relevant to environmental and other issues</i> ".

For further information on the proposed legislative changes, please refer to the Fisheries Management Amendment Bill, also available on the Department's website at: www.dpi.nsw.gov.au/fisheries

For hard copies of the above papers or the bill please phone (02) 9741 4784.

Have your say

The Department invites written submissions on the draft Bill, including the proposed amendments summarised. **The closing date for submissions is Friday 26 June 2015.** Send your submission to:

Mail: Fisheries Legislation, PO Box 7526, SILVERWATER NSW 1811

Fax: (02) 6391 4728

Email: legislation.consult@dpi.nsw.gov.au

More information

For more information on the proposed amendments relevant to Aboriginal fishing contact [Mika Malkki, Manager Licensing & Policy on \(02\) 9741 4821.](#)

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Disclaimer: The information contained in this publication is based on knowledge and understanding at the time of writing (May 2015). However, because of advances in knowledge, users are reminded of the need to ensure that information upon which they rely is up to date and to check currency of the information with the appropriate officer of the Department of Primary Industries or the user's independent adviser.

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Table 1. Proposed amendments to the *Fisheries Management Act 1994* relevant to Aboriginal fishing

Summary of existing provision	Proposed amendment	Reason for proposal
Establishing an Aboriginal fishing trust fund		
At present the Act establishes a number of special fisheries trust funds, including for commercial fishing; recreational fishing (one fund for freshwater and another for saltwater); aquaculture; fish conservation, and charter fishing. These funds provide a transparent accounting mechanism for any incoming funds and expenditure associated with the respective fisheries or areas.	The proposed amendments establish a dedicated Aboriginal fishing trust fund.	To provide a transparent accounting mechanism for any incoming funds and expenditure associated with enhancing Aboriginal fishing.
Permits – authorising groups or classes of persons		
At present, permits issued under section 37 of the Act, which includes permits for Aboriginal cultural fishing purposes, can only be issued to an individual, but they may also authorise others (in addition to the permit holder).	The proposed amendments expand the existing permit provisions by enabling the Minister to make an order authorising groups of people to undertake activities that are otherwise unlawful. Orders would be published in the NSW Government Gazette and/or on the Department's website.	The proposed changes provide a streamlined measure for authorising groups of people to undertake activities that are otherwise unlawful under the Act. The order provision removes the need for an individual to be issued with a permit and for all individuals covered by a permit, to be identified within the permit.
Fishing determinations		
At present, the Act establishes an independent committee (the Total Allowable Catch Setting and Review Committee) which may determine Total Allowable Catches (TAC) and fishing effort (TAE) for the commercial fishing sector only. Determinations are issued amongst commercial fishers in the form of quota.	A range of amendments are proposed. These include: <ul style="list-style-type: none"> • Enabling TAC and TAE to be determined for any fishing sector or part thereof, including for Aboriginal cultural fishing. • Enabling the Secretary of NSW Trade and Investment to make TAC and TAE determinations for expedience (instead of the committee), but only if a relevant, robust and recent scientific assessment exists, and requiring the committee to make the determination would result in unnecessary duplication of that assessment. • Providing for a TAC or TAE to be allocated in full, in part, or not at all. TAC or TAE determinations may for example be used only to provide 	The proposed changes provide for a more holistic approach to the management of fisheries resources in NSW by enabling TAC and TAE determinations to be made for any fishing sector or parts thereof. Enabling the Secretary to make TAC and TAE determinations in certain circumstances will streamline the process and reduce the cost of determining TACs and TAEs.

Summary of existing provision	Proposed amendment	Reason for proposal
	<p>guidance in the management of fisheries.</p> <ul style="list-style-type: none"> • Providing for TAC or TAE to be allocated to participants in one or more fisheries sectors. 	
Commercial fisheries shares – option to reissue forfeited and surrendered shares		
<p>At present the Act enables the Minister to cancel or sell commercial fishery shares that have been forfeited for offences against the Act or failure to pay certain fees.</p> <p>The Act also requires the Minister, if requested by a commercial fishery shareholder, to sell any shares surrendered by the shareholder.</p>	<p>The proposed amendments provide the Minister the additional options of retaining or reissuing shares that have been forfeited.</p> <p>The amendments would also remove the requirement for the Minister to sell surrendered shares when requested to do so by the shareholder. Instead the Minister would have the option to retain, reissue or sell any shares that have been surrendered.</p>	<p>The proposed change delivers increased flexibility with respect to the fate of forfeited shares.</p> <p>Subject to future policy developed in consultation with relevant advisory groups, the reissuing of forfeited or surrendered shares could for example be used to enhance Aboriginal participation in the commercial fishing industry.</p> <p>Note: Any shares surrendered as a result of the current commercial fisheries reform program will be cancelled (not retained, reissued or sold).</p>