

Birpai Barray (Hastings) Aboriginal Cultural Fishing Local Management Plan

(Trial Plan)

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Hastings Aboriginal Community Cultural Statement

Guudji Yiigu, (Greetings to you all)¹

Yii Barraba Barray (This is my Country)

Yii Birrbay Barray (This is Birpai Country)

We acknowledge the traditional custodians of this land the Birpai People.

We are proud to share and protect this beautiful country. From the rivers to the oceans, along the coastline, to the mountains and the plains in the hinterlands. We acknowledge and respect that for millennia this land has been in the care and protection of the original custodians the Birpai Nation.

We acknowledge the Birpai Nation as the traditional custodians of these lands, rivers and oceans. We pay our respect to the ongoing connection with country, culture and practices within the boundaries of the Birpai Nation.

We acknowledge our elder's past and present. We acknowledge the future leaders our young people and the children who will be bestowed with the knowledge and connection to culture as handed down to them.

We also extend our acknowledgement to other Aboriginal and Torres Strait Islander nations present in our community, we know you will continue to respect our cultural connections and obligations to our beautiful Country.

Wanyimbuwanyimbu ganyila, wanyimbuwanyimbu ganyiy Birrbayguba barray

(Always was, always will be Birpai land)

Gathay Nyiirun Wakulda

(Let us all go together as one)

Marrungbu

(Thank you)

¹ This statement or any part of it may not be reproduced in any form without the written consent of the Hastings Cultural Fishing Local Management Plan Steering Committee.



Sustainable living and resource management is not a new concept for Aboriginal communities anywhere in this country. The Australian Aboriginal people belong to the oldest living culture on earth and are experts in cultural management practices.

Aboriginality is about identity, connection and knowledge of cultural practices. The region covered by this trial plan is known as the Northern Birrbay Barray (Birpai Country). This plan covers the geographical footprint of the Bunyah Local Aboriginal Land Council and Birpai Local Aboriginal Land Council.

Historical dispossession and forcible removal of our people from our lands has significantly impacted the well-being of our people and country. Our intention of being party to the Hastings Cultural Fishing Local Management Plan is to ensure access, maintain connection and relationships to our lands and waters for the well-being of our country and kin for generations to come."

Water and waterways are the lifeline of Birpai culture and country. As Aboriginal people, this connection is much more than a simple location to live. It's a connection to our Identity, who we are, it's about our social and emotional well-being. Access to the fisheries in our community is viewed as our right, under our Cultural connectivity to country and maintaining culture.

Totems for the rivers: The relationship with totems extends beyond the physical and indicate a layer of identity such as our bloodline and social section identities. Aboriginal people look to their totems for particular signs, including ongoing association with the Dreaming. Belonging to a totem bestows upon the individual responsibilities and obligations for maintaining knowledge and ceremony.

Shark (Dinuni) The shark is the major sea totem of all Birpai people, extending from Point Plomer in the north, to the Worimi in the south. Its significance was observed by Oxley's expedition when Aboriginal people refused to eat sharks that had been caught.

Eagle (Gumal) The eagle is one of the major bird totems of the Birpai, as it is with most other Aboriginal nations of South-Eastern Australia. Its significance is captured in The Dreaming site of Mt. Cairncross (Gumalbitjanbaa- the place where the Eagle drinks).

Kangaroo (Wambuyn) Several species of Kangaroo are totems to different groups of Birpai, with the Eastern Grey most closely linked to the clans of the Comboyne area.

Bass (Makurr) Bass are the main freshwater fish with totemic relationships to the Rollands Plains clans of the Birpai. Bass are closely aligned to the tidal estuary perch, which also features in Birpai totemic beliefs.

Stingray (Biluun) The stingray is most closely associated with the northernmost Birpai clan around Point Plomer. Early white settler accounts relate the Stingray being speared and eaten around Wauchope.



Dolphin (Guparr) The Dolphin totem is most closely associated with the Port Macquarie clans. Birpai oral tradition records women 'singing' the dolphin close to shore as a method of bringing schools of fish.

Crab (Djinidjini) Crabs are one of the major saltwater totems of the Bonny Hills clans of the Birpai. While they cannot be caught and eaten by these clans, many other species of seafood are, such as lobsters, oysters and pipis.

These are just a few of the totems connecting the people and country in the Birpai Nation. Totems can be inherited through family lines and association with country, meaning one individual can carry the knowledge and responsibilities associated with the protection of multiple species. Responsibility bestowed on an individual includes the protection of their totem, which can mean no hunting or consumption of that species. Ultimately providing an intricate model for resource management and sustainability. Totems are a defining feature of a cultural fishery. Catch reflects people's totemic connections. The bag limits are reflective of the community's cultural needs. Within the community there are members that will never target species in ways that affect the balance of resources or respect for country. Putting undue pressure on any given element is to be avoided, especially in sensitive parts of country such as spawning grounds and those heavily impacted by population growth and natural events.

Middens tell us a lot about Aboriginal activities in the past. Middens are places where remains of food and other items such as tools were discarded. The types of shells, fish bones and tools in a midden provide detail of use of the marine environment and the time of year when Aboriginal people used it. There are many middens located throughout the Hastings region, known to Local Community and many of which have been desecrated. The first industry post settlement in the area was lime burning. Middens at Lime Burners Creek on Queens Lake and that which lay where Laurieton currently stands were decimated. Many of the stone and brick buildings erected between 1826 and 1830 in Sydney were held together with lime from the Camden Haven. In the 1800's due to absence of any limestone source, large quantities of shells were burnt to provide for needs and it seems extremely likely that many of the Camden Haven Aboriginal middens were destroyed for their shell content during the course of these early lime burning activities (Collins, 1998).

Canoe Trees: Scars can be seen on trees from which bark was removed for canoe construction. These are known as 'canoe trees'. Bark canoes were used by Aboriginal people for general transport, fishing and collecting birds' eggs from reed beds. When fishing in such canoes, women sat and used hooks and lines; men stood to throw spears. A small fire would often be kept alight in the canoe on a bed of wet clay or seaweed. This kept people warm in winter and also allowed them to cook the fish caught whilst on the water. Canoes of this type were made from the bark of swamp she-oak ('Casuarina glauca'), bangalay ('Eucalyptus botryoides') or stringybark ('Eucalyptus agglomerata' and 'Eucalyptus acmeniodes'). These trees were chosen for bark canoe construction because they have large dominant trunks and thick fibrous bark. The tree species are common throughout Australia.



Acknowledgement

Department of Primary Industries - Fisheries

The Department of Primary Industries (DPI Fisheries) within the Department of Regional New South Wales acknowledges the traditional custodians of the land and extends due respect for elders past, present and emerging. The Department seeks to apply thoughtful and collaborative approaches to management of resources and looks to support the inclusion of Aboriginal people socially, culturally and economically.

In managing the State's fisheries resources, the primary objective is to conserve, develop and share the fisheries resources of the State for the benefit of present and future generations. Distinct recognition is given to the significance of the connection Aboriginal people have with fisheries resources and clear direction is given to protect and promote cultural fishing access. The Department is committed to working collaboratively with coastal and inland Aboriginal communities to achieve balance in promoting aspirations of the Aboriginal community and ensuring the availability of resources for future generations to share.

Sincere appreciation is expressed to Associate Professor Stephan Schnierer, Hayley Egan and the Tweed Aboriginal community for earlier studies which have greatly informed the direction and development of the Hastings Aboriginal Cultural Fishing Local Management Plan. Further appreciation is expressed to all the Aboriginal people in the Hastings community for involvement in the development of their formal trial plan. The evaluation of the trial will greatly inform the future direction of Aboriginal cultural fishing access arrangements for NSW.



Contents

Hastings Aboriginal Community Cultural Statement.....	ii
Acknowledgement.....	v
Abbreviations.....	3
1. Introduction to the Cultural Fishing Local Management Plan trial	4
1.1 Background	4
1.2 Hastings Cultural Fishing Local Management Plan trial	4
1.3 Hastings and Camden River catchments.....	4
2. Development	5
2.1 Process of development.....	5
2.2 Parties to the development of the Hastings Cultural Fishing Local Management Plan	5
2.3 Objectives.....	5
2.4 Content and structure for cultural fishing local management plans.....	6
3. Hastings Cultural Fishing Local Management Plan	7
3.1 Relevant legislation	7
3.2 Local Management Plan, Cultural Fishing Authority.....	8
3.3 Native Title.....	8
3.4 Geographical extent of the Hastings Cultural Fishing Local Management Plan.....	9
3.5 Hastings Local Cultural Fisher	10
3.6 HLCF register.....	14
3.7 Identification	14
3.8 Cultural bag limits and gear limits.....	15
3.9 Cultural events and special cultural activity – fishing events	19
3.10 Term of plan.....	20
3.11 Review	20
4. Governance and administration	22
4.1 Hastings Cultural Fishing Steering Committee.....	22
4.2 Self-regulation principles	22
4.3 Catch monitoring and reporting	24
4.4 Protecting the aquatic environment.....	24
4.5 Review of environmental factors.....	25
5. Communications and engagement.....	26
5.1 Key communication and engagement protocols.....	26



5.2	Hastings Aboriginal community engagement and education	26
5.3	Broader Aboriginal community engagement and education	26
5.4	Public engagement and education	27
	Appendix 1. Bag limits for taking and possessing fish	28
	Appendix 2. Maps	33
	Appendix 3. Community identified cultural fishing aspirations.	35
	Appendix 4. Traditional fishing gear definitions	36
	Appendix 5. Hastings Cultural Fishing Steering Committee - Terms of Reference	37
	Appendix 6. Appeals process.....	39
	Appendix 7. Engagement Protocol.....	41
	Appendix 8. Pilot program evaluation framework.....	48
	References.....	56



Abbreviations

	Abbreviation
ACFIA	Aboriginal Cultural Fishing Interim Access Arrangement
AFAC	Aboriginal Fishing Advisory Council
AFPRG	Aboriginal Fishing Projects Reference Group
Department	Department of Regional NSW
DDG DPI Fisheries	Deputy Director General, Department of Primary Industries - Fisheries
DPE-EES	NSW Department of Planning and Environment - Environment, Energy and Science
EF	Hastings Cultural Fishing Local Management Plan Evaluation Framework
EG Plan	Fisheries Management (Estuary General Share Management Plan) Regulation 2006
EIS	Environmental Impact Statements
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EPBC Act	<i>Environmental Protection and Biodiversity Conservation Act 1999</i>
FCU	Fisheries Compliance Unit
FM Act	<i>Fisheries Management Act 1994</i>
FMA Act	<i>Fisheries Management Amendment Act 2009</i>
FMG Regulation	Fisheries Management (General) Regulation 2019
HLCF	Hastings Local Cultural Fisher
HCFBL	Hastings Cultural Fishing Bag Limit
HLMP	Hastings Cultural Fishing Local Management Plan
HCFPL	Hastings Cultural Fishing Possession Limit
HCFSC	Hastings Cultural Fishing Steering Committee
IMP	Integrated Monitoring Program
LALC	Local Aboriginal Land Council
LMP	Local Management Plan
NAIDOC	National Aborigines and Islanders Day Observance Committee
NSWALC	New South Wales Aboriginal Land Council
NSW DPI	New South Wales Department of Primary Industries (within Department of Regional NSW)
NTSCORP	Native Title Services Corporation
OH Plan	Fisheries Management (Ocean Hauling Share Management Plan) Regulation 2006
P	Protected, no take
REF	Review of Environmental Factors

1. Introduction to the Cultural Fishing Local Management Plan trial

1.1 Background

The Aboriginal Cultural Fishing Local Management Plan (LMP) trial addresses resource access aspirations with recognition to the differences in cultural needs and practices that exist across those Aboriginal communities. What is of key importance to one community may not necessarily be the case in another and may not reflect acceptable practice in yet another. To address this, the LMP trial attempts to understand how more localised arrangements can effectively be implemented. The LMP describes a comprehensive suite of arrangements and agreed management rules applicable to cultural fishing activities within a geographical area, which have been identified by an engaged community and developed in partnership with the Department of Regional NSW. The LMP trial will play a key role in helping to inform any future process to commence section 21AA of the *Fisheries Management Amendment Act 2009* (FMA Act).

1.2 Hastings Cultural Fishing Local Management Plan trial

The Hastings Aboriginal Cultural Fishing Local Management Plan (HLMP) is one of two trials being conducted along the NSW coast, the other being in the Tweed region. The trial management measures offer Aboriginal communities' involvement in the management of fisheries resources and seek to protect culturally important fishing activity and access to the fisheries resource for Aboriginal people. The trial HLMP will also inform management authorities, commercial and recreational fishers and the general community about the cultural management and use of fisheries resources by Aboriginal people in the trial area.

1.3 Hastings and Camden River catchments

The area for the HLMP is located on the Mid North Coast of NSW and lies within the parts of the Hastings and Camden River catchments that are in the Birpai LALC area and the Bunyah LALC area. The catchment is an area of 4,484 square kilometres extending from the New England tablelands east to the Pacific Ocean and covers 84 kilometres of coastline. Major towns include Port Macquarie at the mouth of the Hastings River, Laurieton and Wauchope. The Mid North Coast of NSW is rich in natural resources with areas of open forests and grasslands, dense eucalypt forests and rainforests and many rivers, creeks, lakes, lagoons and swamps.



2. Development

2.1 Process of development

Underpinning the HLMP development is the *“Engagement Protocol: Development of Aboriginal Cultural Fishing Trial Local Management Plans”* (**Appendix 4**). The Engagement Protocol sets out the principles which have guided the conduct for all LMP discussions and negotiations.

Discussions and negotiations were held with the local Aboriginal community to ensure the HLMP reflects and represents, where possible, their fishing aspirations and expectations. Community members met with the NSW DPI through a series of independently facilitated workshops to negotiate the process and to frame content of the HLMP.

2.2 Parties to the development of the Hastings Cultural Fishing Local Management Plan

Parties involved in the development of the HLMP included:

- traditional custodians
- members of the local Aboriginal community
- local Aboriginal service providers and organisations
- Birpai LALC
- Bunyah LALC
- NSW DPI
- AFAC
- NSWALC
- NTSCORP
- Barefeet (independent consultant).

The AFAC provides strategic level advice to the Minister for Agriculture and Western New South Wales on issues affecting Aboriginal fishing interests and plays an important role in the development of cultural fishing policy. The AFAC was engaged throughout the development process on matters of importance to the Hastings community and aided in facilitating community involvement in the process. The NSWALC and NTSCORP appoint members to AFAC and were also directly engaged by the agency level Aboriginal Fishing Projects Reference Group set-up to assist progress of the LMPs.

2.3 Objectives

The HLMP objective is to describe cultural fishing management arrangements at a local level with consideration to:

- ensuring fisheries resource management arrangements are culturally appropriate
- recognising local practices
- supporting the cultural needs of community



- identifying and recognising local Aboriginal fishers
- describing cultural rules
- remaining adaptive
- aiding communication between community and government agencies responsible for the management of aquatic biological resources.

The interests of other Aboriginal communities and the broader community were also considered.

2.4 Content and structure for cultural fishing local management plans

The HLMP includes:

- the term of the trial
- description of the applicable waters
- defining who is a local Aboriginal cultural fisher under the plan
- description of local cultural fishing practices including
 - key species
 - methods
 - gear types
 - cultural bag and possession parameters
 - seasonal and special activity
- identifying and defining self-management protocols
- describing stakeholder engagement.



3. Hastings Cultural Fishing Local Management Plan

The objects of the *Fisheries Management Act 1994* (FM Act) include recognising the spiritual, social and customary significance of the fisheries resource to Aboriginal people and to protect and promote the continuation of Aboriginal cultural fishing. The FM Act defines Aboriginal cultural fishing as; *“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”*.

Cultural fishing activity is subject to rules prescribed by legislation, such as the FM Act and the Fisheries Management (General) Regulation 2019 (**FMG Regulation**). The FM Act distinguishes between “recreational fishers” (fishers who take fish by any method, otherwise than for sale) and “commercial fishers” (a person who holds a commercial fishing licence, and who takes fish for sale), but for the most part, a person engaging in Aboriginal cultural fishing is required to follow the same rules as recreational fishers. For example, the daily take and possession limits of fish prescribed in the FMG Regulation for recreational fishers to apply to Aboriginal cultural fishing unless alternatives to those limits are provided through other measures.

The HLMP promotes recognition of Aboriginal cultural fishing and provides for distinct access arrangements for the duration of the trial.

3.1 Relevant legislation

The objects of the FM Act are ‘to conserve, develop and share the fishery resources of the State for the benefit of present and future generations’.

In particular, this includes:

- a) *to conserve fish stocks and key fish habitats, and*
- b) *to conserve threatened species, populations and ecological communities of fish and marine vegetation, and*
- c) *to promote ecological sustainable development, including the conservation of biological diversity,*

and, consistently with those objects:

- d) *to promote viable commercial fishing and aquaculture industries, and*
- e) *to promote quality recreational fishing opportunities, and*
- f) *to appropriately share fisheries resources between the users of those resources, and*
- g) *to provide social and economic benefits for the wider community of New South Wales, and*
- h) *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 FM Act contains some measures that apply only to Aboriginal persons:

- a) *Section 34C - An Aboriginal person is exempt from paying the recreational fishing fee,*



- b) *Section 40Y – taking fish for Aboriginal cultural fishing is distinct from taking fish for recreational fishing purposes for the purposes of allocating a non-commercial fishing determination.*
- c) *Section 220ZFA – the carrying out of traditional Aboriginal cultural activities (except commercial activities) as part of routine agricultural management activities is a defence to an offence relating to threatened species, populations and ecological communities,*
- d) *Section 229 (and clauses 247, 250 FMG Regulation) – establishment of the Aboriginal Fishing Advisory Council,*
- e) *Section 237A – making payments to and from the Aboriginal Fishing Trust Fund,*
- f) *Section 237B – Aboriginal fishing assistance programs.*

3.2 Local Management Plan, Cultural Fishing Authority

Section 37(1)(d) allows the Minister to approve the taking and possessing of fish or marine vegetation for the purposes of Aboriginal cultural fishing. That approval may be given by granting a permit to a person or class of persons, or by making an order (s37(3)). An Order made under s37(3)(b) of the FM Act will underpin the HLMP trial.

An approval may authorise the taking of fish or marine vegetation by any method or by any specified method, from any waters or any specified waters or in any other specified way, despite any provision of or made under the FM Act to the contrary. An approval for the taking of fish given under section 37(1)(d) of the FM Act is a defence to a prosecution for an offence against the FM Act or the regulations.

Currently, in NSW a general extension to access is afforded to Aboriginal people through the Aboriginal Cultural Fishing Interim Access Arrangement (**ACFIA**). The ACFIA aims to provide for Aboriginal cultural needs, where elders, the incapacitated or other community members are unable to engage in cultural fishing activity, or it is otherwise not appropriate for them to engage in cultural fishing activity. An individual Aboriginal person undertaking the cultural fishing activity may take and possess double the current recreational bag/possession limits, unless specific limits apply. The Department will continue to apply the ACFIA within the HLMP trial area to provide continued access to Aboriginal persons not covered by the HLMP. If a person is covered by the HLMP, the amount of fish that person can take will be determined under the HLMP, and other aspects of the ACFIA will be included in the HLMP arrangements.

3.3 Native Title

LMP arrangements made under the FM Act are not intended to affect the operation of the Commonwealth *Native Title Act 1993* or the New South Wales (NSW) *Native Title Act 1994* in respect of the recognition of Native Title rights and interest within the meaning of the *Native Title Act 1993 (Commonwealth)* or in any other respect (s 287 of the FM Act).

There are currently no Native Title Claimant Applications or Determination Areas for the land and waters subject to the HLMP, but there may be individuals who are native title holders who may exercise or enjoy native title rights and interests in the HLMP trial area.



Under section 37(9) of the FM Act, the Minister must not grant an approval for an Aboriginal cultural fishing authority under section 37 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 *Native Title Act 1993*) or with the terms of an indigenous land use agreement. Notice of the section 37 order made to give effect to the HLMP will be given under the future acts provisions of the *Native Title Act 1993*.

3.4 Geographical extent of the Hastings Cultural Fishing Local Management Plan

The HLMP applies to waters in the areas constituted as the Bunyah LALC area and the Birpai LALC area. Mostly, this area corresponds to the Hastings and Camden Haven catchments. There are two main rivers in these catchments: the Hastings, which flows south-east through a coastal floodplain to Port Macquarie and, the Camden Haven River, which flows through coastal lakes to the sea.

The Maria River (including Wilson River and Pipers Creek), reaches its confluence with the Hastings River west of Port Macquarie. It does not fall within the HLMP's boundaries.

The areas subject to the HLMP hold cultural significance to the Aboriginal community. Traditional hunting activity has and continues to be practiced. The harvest of fisheries resources for Aboriginal cultural purposes also takes place in public waters within the State's jurisdiction, including tidal waters (e.g., ocean waters and estuaries) and non-tidal waters (e.g., lakes, creeks, rivers). Several sites included in the HLMP are of cultural significance and will remain unnamed or their connection not elaborated on due to the associated cultural sensitivities.

Applicable ocean waters under the Plan

Ocean waters means waters within the limits of NSW, that is, east of the natural coastline of NSW to a distance of 3 nautical miles from the coastline. It includes all ocean beaches, reef platforms and headlands. For ocean waters:

- the northern boundary of the HLMP is a direct line eastward from the northern break wall of the Hastings River at its confluence with the South Pacific Ocean
- the southern boundary of the HLMP, is a direct line eastward of the border between the Crowdy Bay National Park and the suburb of Dunbogan
- the seaward boundary of the HLMP is 3 nautical miles from the coastline between the northern boundary and the southern boundary.

Applicable inland waters under the Plan

The HLMP includes all waters fresh and salt within the Birpai LALC area (as constituted in the NSW Government Gazette No. 82, Friday 17 May 1985, page 2130) and Bunyah Local Aboriginal Land Council Area (as constituted in the NSW Government Gazette No. 105, Friday 19 July 1985, page 3647) that are part of the Hastings and Camden Haven Rivers and their tributaries.





3.5 Hastings Local Cultural Fisher

(a) is a member of the Aboriginal race of Australia,
(b) identifies as an Aboriginal person, and
(c) is accepted by the Aboriginal community as an Aboriginal person (s4(1)).

(a) automatically eligible to be a HLCF or who apply to be an HLCF and are found to be eligible, and

(b) are approved as HLCFs by the DDG DPI Fisheries.

Eligibility to be recognised as a Hasting Local Cultural Fisher

3.5 (a) Automatic eligibility

Table 1. Eligibility to be recognised as a Hasting Local Cultural Fisher

Category	Criteria
Local Aboriginal Land Council membership	<p>The Aboriginal person is an active member of the Bunyah LALC or Birpai LALC whose name is on the membership roll of that Aboriginal Land Council.</p> <p>A person is an active member of an Aboriginal Land Council unless they are an inactive member for the purposes of section 57A of the <i>Aboriginal Land Rights Act 1983</i>.</p>
Child	<p>A person less than 18 years of age who is</p> <p>a child of a registered HLCF by blood, marriage (registered or de facto), adoption, step, fostering or kinship care and who is usually resident in the same household* as the registered HLCF,</p> <p>a child of a registered HLCF by blood, marriage (registered or de facto), adoption, step, fostering or kinship care who is not usually resident in the same household as the registered HLCF because of parental separation,</p> <p>a lineal descendant of a HLCF, such as a grandchild, great-grandchild or great-great-grandchild.</p>
Young adult	A person who was automatically eligible to be a HLCF because they were a child (as defined above) who turns 18 years old during the trial period.

* "Household" is defined by the Australian Bureau of Statistics.

The Hastings Cultural Fishing Steering Committee (HCFSC) will:

- notify each active member of the Bunyah LALC or the Birpai LALC that they and their children are automatically eligible to be an HLCF
- seek the consent of each person who is automatically eligible to be a HLCF:
 - to notify the Department that the member and their children are HLCF
 - for the Department to include their names in a register of HLCF to be used by the HCFSC and the Department
 - for the Department to use and disclose the information for the purposes associated with the HLMP, for example research and evaluation
 - for the Department to provide information to the HCFSC (including personal information and information about the person's fishing activities) for the purposes of the HLMP self-regulatory system.

The HCFSC will notify the DDG DPI Fisheries of those persons who have automatic eligibility to be an HLCF who have consented to these details being provided to the Department.

3.5 (b) Eligibility by application

An Aboriginal person who is not automatically eligible under clause 3.5 (a) may apply to the DDG DPI Fisheries in writing to be recognised as a HLCF if the person believes they have cultural or community connection to the area. The Aboriginal person may apply for:

- a) permanent eligibility – ongoing access for the duration of the trial, or
- b) temporary eligibility – an Aboriginal person living outside the trial area be issued with temporary access.

The DDG DPI Fisheries will refer the application to the HCFSC for investigation.

The HCFSC will consider, at a meeting of the HCFSC at which a quorum is present:

- a) whether the person meets the definition of an Aboriginal person for the purposes of the FM Act
- b) whether the person resides within the boundaries of the HLMP area
- c) if the person resides outside the boundaries of the HLMP area, the person's cultural or community connection to the area.

The HCFSC's deliberations must be recorded in the meeting's minutes.

The HCFSC will give the DDG DPI Fisheries a report which sets out:

- a) the HCFSC's recommendation as to whether the person's application should be accepted or rejected
- b) the HCFSC's reasons for their recommendation.

The DDG DPI Fisheries may seek additional information from the HCFSC, and that information must be provided within the time set out in the DDG DPI Fisheries' request. At the same time, the DDG DPI Fisheries will also advise the applicant that additional information has been sought.

The DDG DPI Fisheries may also seek additional information from the applicant, and that information must be provided within the time set out in the DDG DPI Fisheries' request. If the applicant does not provide the information within the time set out in the request, the DDG DPI Fisheries may refuse the application to be recognised as a HLCF

The DDG DPI Fisheries (or other delegate of the Minister administering the FM Act of the powers under s37(1)(d) and s37(3) of the FM Act) will determine the application to be recognised as a HLCF and will advise the applicant of the outcome. If the DDG DPI Fisheries or other delegate refuse an application to be recognised as a HLCF, the DDG DPI Fisheries will, as soon as practicable after refusing, send the applicant written correspondence setting out the reasons for the refusal.

As part of the application process, the applicant must provide consent for their personal information to be:

- used and disclosed by the Department for purposes associated with the HLMP, such as being included in a register of HLCF, and for research and evaluation
- disclosed to the HCFSC for the purposes of assessing the application and administering the HLMP.



As part of the application process, the applicant must also consent to the Department providing information to the HCFSC (including personal information and information about the person's fishing activities) for the purposes of the HLMP self-regulatory system.

Suspending or revoking recognition as a Hasting Local Cultural Fisher

There are two ways in which process to suspend for a period or revoke the recognition of a HLCF may commence:

- a) The DDG DPI Fisheries may advise the HCFSC that the DDG DPI Fisheries intends to suspend for a period or revoke the recognition of a person as a HLCF:
 - if the HLCF has been prosecuted and found guilty of an offence under the FM Act
 - if the HLCF has been issued with a Penalty Infringement Notice (PIN) under the FM Act and did not court elect.
- b) The HCFSC may recommend to the DDG DPI Fisheries that a person's recognition as a HLCF should be suspended for a period or revoked if:
 - The HLCF's name no longer appears on the membership roll of the Bunyah LALC or Birpai LALC or they cease to be an active member of either Local Aboriginal Land Council, in which case the HCFSC will recommend that the person's recognition as a HLCF should be revoked
 - in the opinion of the HCFSC, the HLCF no longer meets the criteria for eligibility by application, in which case the HCFSC will recommend that the person's recognition as a HLCF should be revoked, or
 - in the opinion of the HCFSC, the HLCF's conduct has, or may bring the HLMP into disrepute, including:
 - i. if a HLCF has been charged with a serious offence, but the court proceedings have not concluded
 - ii. if the HLCF has a history of repeated non-compliance with the HLMP, or
 - iii. for conduct that is not consistent with cultural practices outlined in the HLMP.

The HCFSC will:

- give the HLCF an opportunity to make submissions (in writing or in person) as to why their recognition as a HLCF should not be suspended for a period or revoked, and
- consider, at a meeting of the HCFSC at which a quorum is present
 - any submissions made by the HLCF
 - whether the person's recognition as a HLCF should be suspended for a period or revoked.

The HCFSC's deliberations must be recorded in the meeting's minutes.

The HCFSC will give the DDG DPI Fisheries a report which sets out:

- a) the HCFSC's recommendation as to whether the person's recognition as a HLCF should be suspended for a period or not suspended (and the recommended period of any suspension), or revoked or not revoked
- b) if the HCFSC recommends not suspending or revoking the HLCF's recognition, any actions the HCFSC will take in relation to the HLCF



- c) the HCFSC's reasons for their recommendation.

The DDG DPI Fisheries may seek additional information from the HCFSC, and that information must be provided within the time set out in the DDG DPI Fisheries' request. At the same time, the DDG DPI Fisheries will also advise the applicant that additional information has been sought and give the applicant the opportunity to make submissions (in writing) about the additional information.

The DDG DPI Fisheries will determine whether the person's recognition as a HLCF will be revoked and will advise the person of the outcome. If the DDG DPI Fisheries determines that the person's recognition as a HLCF is to be revoked, the DDG DPI Fisheries will, as soon as practicable after refusing, send the person written correspondence setting out the reasons for the refusal.

Appeals process

A person whose application to be a HLCF has been refused or whose recognition as a HLCF has been suspended or revoked may seek a review of the decision. The request for review must be made in writing to the Secretariat HCFSC. The review procedure is set out in Appendix (6): Hastings Cultural Fishing Local Management Plan Appeals process.

3.6 HLCF register

NSW DPI will maintain a register of all HLCF for the purposes of administering the HLMP (**HLCF register**). Access to the HLCF register will be limited to:

- officers in the Department who report to the DDG DPI Fisheries
- the HSFSC.

The HCFSC may request access to the HLCF register at any time.

The Department will remove from the HLCF register any person whose recognition as a HLCF has been revoked. The Department will keep a separate record of any person whose recognition as a HLCF has been revoked or suspended because of enforcement action by the Department.

3.7 Identification

Each HLCF aged 14 years and over may request NSW DPI to issue to them a HLCF identification card containing these details from the HLCF register:

- name
- address
- the HLCF number assigned to the HLCF in the HLCF register.

A Fisheries Officer may request a HLCF who is over 18 years old to provide information so that the Fisheries Officer can verify the person is a HLCF for the purposes of the HLMP. The information a HLCF may provide includes:

- a) their HLCF identification card, or



- b) another form of identification which contains their name and other identifying information (such as address or date of birth), for example, a NSW Driver's licence or Student ID issued by a secondary school or tertiary education facility (e.g. TAFE or a university).

If a person is unable to identify themselves when requested to do so by a Fisheries Officer, the person and the Fisheries Officer may agree a time and place at which the person will provide evidence of their identity.

If a person does not provide evidence of their identity, a Fisheries Officer may proceed as if the person is not a HLCF.

3.8 Cultural bag limits and gear limits

Bag limits define the number of fish that an individual fisher can catch and keep each day. Possession limits define the number of fish that an individual fisher can have in their possession, including when they are transporting or storing the fish. Bag and possession limits under the HLMP differ from those prescribed in clauses 8 and 9 of the FMG Regulation and to those which apply under the ACFA.

If access to fisheries resources is sought beyond what the HLMP provides, application for another authority must be made under Section 37 of the FM Act.

3.8 (a) Cultural bag limits

Cultural bag limits are the maximum number of fish which may be taken by a HLCF per day.

3.8 (b) Cultural possession limits

Cultural possession limits are the maximum number of fish that a HLCF can have in their possession at any time.

Cultural bag and possession limits for the HLMP are specified in HLMP Catch Daily Take and Possession Limits Table (**Appendix 1**).

If a species of fish is not specified in the Table in **Appendix 1**:

- the cultural bag limit will be double the daily limit for that species specified in Schedule 1 to the FMG Regulation or double the daily limit specified in clause 10 to the FMG Regulation
- the cultural possession limit will be double the possession limit for that species specified in Schedule 1 to the FMG Regulation or double the possession limit specified in clause 10 to the FMG Regulation.

Limitations on the harming of threatened species (endangered species, species presumed extinct, critically endangered species and vulnerable species) will apply to HLCF.

3.8 (c) Permitted gear

It is recognised that many traditional ways of fishing have been adapted to the contemporary context with new materials and methods being used for the same traditional purpose. The FMG Regulation prescribes both lawful and non-lawful fishing gear. This



includes the quantity, dimensions, construction materials, methods of identifying gear (marking), and waters for which each gear type may be lawfully be used.

The section 37 order will permit use of the permitted fishing gear by HLCF in the HLMP but will not give a HLCF priority over other fishers or the right to interfere with legally used fishing gear. Use of permitted fishing gear may be restricted to certain areas.

Table 2 lists permitted fishing gear and activities under the HLMP.

Table 2. Permitted fishing gear

	Number permitted (in possession)	Buoy code / colour
Saltwater gear		
Line fishing - rod	5	N/A
Line fishing – handline	5	N/A
*Hand spear / harpoon	No limit	N/A
Spear gun	No limit	N/A
Dip or scoop net (prawns)	1	N/A
Hand hauled prawn net used as a fixed net	2	N/A
Push or scissors net	1	N/A
Hoop or lift net	5	CFHN/unique HLCF number
Spanner crab net	1	CFSN/unique HLCF number
Crab trap	4	CFCT/unique HLCF number
Lobster trap	3	CFLT/unique HLCF number
Hand gathering	N/A	N/A
*Traditional woven trap / net	5	CFTT/unique HLCF number
*Stone trap	1 per location	N/A
*Foam bark	to use and teach with where appropriate	N/A
**Beach haul net	1 per LALC	N/A
**Hauling net (general purpose) and meshing net	1 per LALC	N/A
*Crab wire	2	N/A
Freshwater gear		
Line fishing - rod	5	N/A
Line fishing – handline	5	N/A
Hoop or lift net	5	CFHN/unique HLCF number

	Number permitted (in possession)	Buoy code / colour
Shrimp trap	1	CFST/unique HLCF number
Hand hauled yabby net	1	N/A

3.8 (d) Special purpose gear – estuary hauling and meshing nets, ocean hauling nets

A HLCF may use commercial grade hauling nets and meshing nets in these circumstances:

1. For the purposes of conducting a fishing event^{***}, a HLCF may use hauling nets or meshing nets in estuarine waters or hauling nets in ocean waters but only if the recognised HLCF^{****} is trained or experienced in the use of these nets.
2. At least 24 hours prior to the fishing event, a HLCF must notify the Hastings District Fisheries Office of the intent to conduct hauling or meshing activities in estuarine waters or hauling in ocean waters.
3. When using a hauling net or meshing net in estuarine waters, the HLCF must comply with specified conditions in clauses 17 and 28 of the Fisheries Management (Estuary General Share Management Plan) Regulation 2006 (**EG Plan**).
4. When using a hauling net in ocean waters, the HLCF must comply with specified conditions in clause 13A of the Fisheries Management (Ocean Hauling Share Management Plan) Regulation 2006 (**OH Plan**).
5. During the mullet run from 1 March to 30 June, a recognised HLCF who is trained or experienced in the use of hauling nets or meshing nets, may use hauling nets or meshing nets.
6. During NAIDOC Week, fishers recognised, trained or experienced in the use of hauling nets or meshing nets in estuarine or ocean waters will be permitted to use these nets for the purpose of conducting community fishing events.
7. Any other use of hauling nets or meshing nets may only be undertaken where authorised under section 37(1)(d) of the FM Act.
8. The HLCF must display a notice to clearly identify the activity as a Cultural fishing event.
9. The HLCF who has taken fish using a hauling or meshing net, must make catch records. Those records must be supplied to the Hastings District Fisheries Office or HCFSC secretary within 24 hours of the conclusion of each fishing event involving the use of a hauling net or meshing net in estuarine waters or a hauling net in ocean waters. The catch records must contain information like that required in a prescribed activity record (clause 196, FMG Regulation)
10. The HLCF who takes fish using a hauling net or meshing net at a fishing event must distribute the catch to the participants in the event and the broader Aboriginal community in accordance with possession limits outlined in **Appendix 1** of the HLMP. Any fish not immediately distributed in this way may be held in storage at the premise of one of the Local Aboriginal Land Councils for later distribution in accordance with possession limits outlined in **Appendix 1**.
11. A HLCF must obtain a permit under Clause 61 of the FMG Regulation in order to purchase a commercial hauling or meshing nets for use under the HLMP.

- * *Cultural Fishing gear (cultural or fishing gear not defined in Part 3 of the FMG Regulation) is described in Appendix 4. The use of any cultural or other fishing gear that does not conform with gear regulations as defined in Part 3 of the FMG Regulation or Appendix 4 will require a permit under Section 37 of the FM Act.*
- ** *Use of commercial grade hauling and meshing nets are permitted to be used only in accordance with section 3.8(d) of the HLMP.*
- *** *A “fishing event” is an event listed in Table 2 to Clause 3.9.*
- **** *A HLCF is a “recognised HLCF” if they have successfully completed a Training Program described in Aboriginal Fishing Trust Fund Project - A0051 Birpai LALC Cultural Fishing Project.*

3.8 (e) Culturally significant species (Pipi and Wobbegong)

It is acknowledged that Pipi and some species of fish such as the Wobbegong shark are culturally important for Aboriginal communities. Pipi gathering provides an important source of food, connection to traditional lands; providing cultural purpose to meet with family. The Hastings Aboriginal community asserts this activity needs to continue and be supported to maintain access to a culturally significant resource.

Collecting Pipi for human consumption is currently prohibited unless the collecting is in accordance with conditions outlined in the Safe and Sustainable Sea Country Harvest of Bivalve Shellfish for Aboriginal Cultural Purposes trial. Under Clause 86 of the FMG Regulation and the Fisheries Management (Estuary General Share Management Plan) Regulation 2006, only an appropriately endorsed commercial fisher may take pipis for human consumption. Pipis may only be taken within 50m of the high water mark and must not be moved from that 50m area.

The FMG Regulation prescribes a nil take limit for Wobbegong shark.

3.8 (f) Pipi gathering

The Hastings Aboriginal Community is a participant in phase 2 of the Safe and Sustainable Sea Country Harvest of Bivalve Shellfish for Aboriginal Cultural Purposes trial currently under development. Under the HLMP, the harvest of pipi for consumption will be permitted if all conditions as outlined in the Safe and Sustainable project and complied with.

3.8 (g) Fishing closures and other statutory instruments

Several fishing closures exist in the Hastings area. These exist for a variety of reasons, from public health and safety to preserving unique aquatic environments. Fishing closures made under the FM Act which apply in the HLMP trial area will continue to apply unless specifically stated in the section 37 order for the HLMP or the fishing closure.



3.8 (h) Other permitted actions

Consistently with the ACFIA, a HLCF will be able to shuck abalone, rock lobster and turban shell within 100 metres of the high water mark.

The HLMP is not intended to restrict the Minister's, Secretary's or Governor's powers under the FM Act and regulations made under the FM Act. The HLMP does not impose on the Minister, Secretary or Governor the requirement to consult with the HCFSC or any HLCF when making a statutory instrument under the FM Act.

3.9 Cultural events and special cultural activity – fishing events

The Aboriginal people of NSW have a continuing custodial relationship with 'Country' which incorporates the land, sea and their resources. This extends to maintaining spiritual links to and caring for Country through the continuation of cultural practices and activity. Cultural use of fisheries resources forms an integral part of the Aboriginal relationship with Country. Cultural use of aquatic resources involves the collection of fish and aquatic vegetation for subsistence, medicinal and other cultural purposes. Cultural resource use can also refer to activities associated with visiting places, such as that through culture camps, community and civil events.

Table 3 defines key cultural events and their associated activities recognised within the HLMP. Where the Community or a HLCF requires access or wishes to use methods that are beyond what the HLMP or ACFIA provide (for events such as for a large cultural gathering or ceremonies), application for an authority (permit) the HCFSC or an individual HLCF must apply for a permit under Section 37 of the FM Act.

Table 3. Season cultural events and special cultural activity

Event	Activity	Season
Mullet run	Mullet hauling/ Hand spear/ community education	During the run (March – June)
NAIDOC	Community gathering fishing event	NAIDOC Week (July)
Sorry business	All types of fishing methods as permitted under the HLMP	Whenever appropriate
Pipi*	Hand gathering/ community education	Whenever appropriate
Prawning	Netting as per methods permitted under the HLMP	Summer
Oyster	Hand gathering	October to April

Appendix 3: details community aspirations which are not currently a formal part of the HLMP. The engaged Hastings Aboriginal community recognise these aspirations and the associated activities need to be defined. The HCFSC will gather information on community aspirations and will consider particular activities in consultation with the Department. Where viable, these activities can be added to the HLMP and formalised by amending the section 37 order for the HLMP. Where the community wishes to exercise aspirations not included in the HLMP,

application for a permit can be made by the HCFSC or an individual HLCF under Section 37 of the FM Act.

3.10 Term of plan

The HLMP will be trialled for a period of two years from a commencement point determined by agreement between the Department and the Hastings community. Any variation to the length of the trial will be determined by agreement between the NSW DPI and Hastings community and in line with the procedure as detailed in **3.11** of the HLMP.

3.11 Review

Evaluation of the whole pilot LMP project, which includes the HLMP, will inform decisions about how Aboriginal cultural fishing in NSW is managed in the future, including any future process to commence section 21AA of FMA Act. Evaluation will consider whether LMPs are an effective, efficient and appropriate method to ensure cultural fishing is supported and managed at a local level.

During the trial, all parties will be provided evaluation updates as they take place and a final evaluation report will be prepared at the completion of the trial. Key stakeholders will also be advised on progress of the HLMP during, and at completion of, the pilot program.

Participating communities will be verbally briefed on progress through:

- community events
- HCFSC
- key service providers.

Summaries such as fact sheets and other material will be available at key points in the evaluation process being - baseline, midpoint and end of project.

3.11 (a) Purpose

While a key focus will be the effectiveness of the HLMP in managing the fisheries resource, evaluation will look at all aspects, including understanding that the sharing of knowledge about cultural fishing is very important to the fabric of Aboriginal communities and can contribute to a sense of wellbeing and connection to Country. The spiritual, educational, environmental and social dimensions to Aboriginal cultural fishing are all important considerations.

3.11 (b) Audience for the evaluation

The primary stakeholders in the evaluation are the Aboriginal communities engaged in the preparation and trial of the HLMP.

The primary audience for the evaluation report is the Minister administering the FM Act, who is responsible for future management of Aboriginal cultural fishing.



3.11 (c) Evaluation methodology

The Aboriginal Cultural Fishing Local Management Plan Evaluation Framework (EF) **(Appendix 5)** will direct the evaluation process during and at the conclusion of the trial period and be available for ongoing purposes as needed. The key evaluation questions for the LMP pilot project flow from the project logic. It is intended that all aspects of the project logic are tested with at least one evaluation question focusing on each component. **Table 2** of the EF summarises the key evaluation questions, indicators, timing and method of data collection following on from the project logic framework.



4. Governance and administration

4.1 Hastings Cultural Fishing Steering Committee

The HCFSC is the key stakeholder body within the HLMP governance structure responsible for issues associated with the HLMP. The HCFSC has primary responsibility in assisting with the management of the operational arrangements of the HLMP and the attainment of its outcomes. The HCFSC will play a key role in providing ongoing support, guidance and oversight of community reception of the HLMP during the trial.

The HCFSC will be made of up to eight Aboriginal community members (each with a deputy). Members of the Aboriginal community may express interest in being a member of the HCFSC or a deputy through an expression of interest process.

Membership of the HCFSC will be determined:

- **for the first HCFSC** – by vote of the active members of the Bunyah LALC or Birpai LALC whose names are on the membership roll of that Aboriginal Land Council.

For the purposes of the ballot, the Local Aboriginal Land Councils may group candidates so that the HCFSC has the balance of representatives described in clause 2 of Appendix 5 to this plan.

The Bunyah LALC or Birpai LALC may agree that each Local Aboriginal Land Council will elect four members of the first HCFSC.

- **for subsequent HCFSCs or to replace members of the HCFSC** – by vote of all HLCFs.

For the purposes of the ballot, the HCFSC may group candidates so that the HCFSC has the balance of representatives described in clause 2 of Appendix 5 to this plan.

Details of the HCFSC's role and responsibilities are set out in **Appendix 5: Hastings Cultural Fishing Steering Committee Terms of Reference**.

HCFSC Secretariat

The Department will provide a staff member for secretariat support to the HCFSC (**HCFSC Secretariat**). The Secretariat's role and responsibilities are described in **Appendix 5: Hastings Cultural Fishing Steering Committee Terms of Reference**.

4.2 Self-regulation principles

The purpose of the HLMP self-regulatory system is to maintain community and stakeholder confidence through a set of established principles as detailed in this section. These principles are designed to aid rapid and effective responses to issues as they emerge.

NSW DPI Fisheries will monitor and enforce compliance with the FM Act. If a HLCF does not comply with the FM Act, including with the conditions associated with extended access to resources provided under the HLMP, NSW DPI Fisheries may undertake enforcement actions against the HLCF under the FM Act.



4.2 (a) The Department will communicate with the HCFSC

- the Department, through the HCFSC Secretariat, will give the HCFSC information about activities by HLCFs, and persons who claim to be HLCFs, within the HLMP area which may be an offence under the FM Act
- the Department, through the HCFSC Secretariat, will notify the HCFSC when a HLCF has allegedly committed an offence under the FM Act for which the section 37 order supporting the HLMP does not provide a defence.

4.2 (b) Roles of HCFSC and NSW DPI Fisheries

The Department and HCFSC will develop a matrix which classifies the seriousness of offending by HLCFs and proposes a range of enforcement actions for the offending. The matrix will consider the effect of the following on the seriousness of offending:

- repeated non-compliance with the section 37 order underpinning the HLMP
 - whether the HLCF holds a commercial fishing licence under the FM Act
 - whether the HLCF has sold fish taken under the HLMP.
- (i) the HCFSC Secretariat will convene quarterly meetings between the NSW DPI and HCFSC to discuss any matters that NSW DPI has brought to the attention of the HCFSC under paragraph 4.2(a). The HCFSC Secretariat will convene additional meetings, if requested by a majority of HCFSC members.
 - (ii) the Department and HCFSC will discuss:
 - how each alleged offence by a HLCF should be classified using the matrix
 - the action which may be taken by the HCFSC and the Department in relation to the alleged offending, including:
 - i. the Department refraining from acting for an agreed period to allow the HCFSC to discuss the alleged offending with the HLCF and to put in place measures to prevent offending in the future
 - ii. NSW DPI Fisheries Officer giving a warning or official caution
 - iii. NSW DPI Fisheries Officer issuing a penalty notice
 - iv. the Department bringing proceedings to enforce the FM Act.
 - (iii) the HCFSC may make recommendations to the Department on the type of enforcement action to be taken by the Department in relation to alleged offending by a HLCF. The HCFSC may identify matters that it considers require deviation from the range of enforcement actions for the type of offending.
 - (iv) the Department will consider any discussions between the HCFSC and the Department and recommendations made by the HCFSC, but the decision as to the classification of the offence and the enforcement action which will be taken will be made by a NSW DPI Fisheries Officer.
- * *NSW Police are authorised officers under the FM Act. The HLMP does not constrain NSW Police from commencing proceedings under the Act.*
- ** *Any person can bring proceedings in the Land and Environment Court for an order to remedy or restrain a breach of the FM Act.*



4.2 (c) Role of NSW DPI Fisheries (Compliance)

The Department has responsibility for administering fisheries laws governing the fisheries resources of the State, exercised through the Fisheries Compliance Unit (FCU). The FCU will play a key role during the trial through operational interaction with HLCF and regular communications with the HCFSC.

4.3 Catch monitoring and reporting

The HLMP presents an opportunity to contribute to improving understanding of Aboriginal cultural fishing activity and effort. Data collected will contribute to measuring the operational components of the HLMP and assist with identifying areas of resource management requiring review and/or adjustment.

During the trial period data on catch and fishing effort, cultural education and community affect will be collected via:

- the NSW DPI Integrated Monitoring Program (IMP)
- biannual community surveys.

The proposed IMP will assess trends in cultural fishing participation, effort, catch, fisher opinions/satisfaction levels and the size and age profiles of species caught (on an annual basis) for NSW. Biannual community surveys will be conducted at targeted events and through online surveys.

4.4 Protecting the aquatic environment

The arrangements under the HLMP have been established with recognition to the aspirations of those to whom the plan applies, which includes supporting the conservation of fish populations and protecting fish habitats, conserving threatened species, populations and communities of fish and marine plants and promoting ecologically sustainable development.

In NSW, the responsibility for aquatic biodiversity is divided between NSW DPI and the DPE-EES. The NSW DPI is responsible for all species of fish and marine vegetation. Fish include sharks and rays, aquatic invertebrate animals, such as worms, snails, mussels, corals, sponges, sea urchins, barnacles, crabs, crayfish, aquatic insects and prawns. Marine vegetation includes saltmarsh, mangroves, seagrasses and marine algae. Other types of animals, including whales, dolphins, seals and waterbirds, and plants, including freshwater plants, are the responsibility of EES. The responsibility for threatened species and their management is shared between NSW DPI and EES.

Legislation applying to threatened species and threatened species programs in NSW includes:

- *Fisheries Management Act 1994*
- *Biodiversity Conservation Act 2016*
- *Environment Protection and Biodiversity Conservation Act 1999* (Commonwealth).



4.5 Review of environmental factors

The *Environmental Planning and Assessment Act 1979* (EP&A Act) requires Environmental Impact Statements (EIS) to be prepared for 'designated fishing activities'. Aboriginal cultural fishing is not listed as a designated fishing activity in Schedule 1A or Schedule 1AA of the FM Act and an EIS is not required for the HLMP.

However, Aboriginal cultural fishing carried out under the HLMP for the purpose of assessing experimental management arrangements may be considered an activity for the purposes of the EP&A Act. Part 5 of the EP&A Act requires a determining authority (that is, the Minister under s37 of the FM Act) to "examine and take into account to the fullest extent possible all matters affecting or likely to affect the environment by reason of that activity". The Review of Environmental Factors (REF) undertaken for the HLMP trial considered the environmental impacts of Aboriginal cultural fishing addressing the assessment provisions under the EP&A Act and with consideration to the objects of the FM Act and associated legislation.

The *Environmental Protection and Biodiversity Conservation Act 1999* (EPBC Act) also requires an assessment of activities likely to significantly impact matters of national environmental significance such as threatened species, or if exports of animals, plants, wildlife specimens or wildlife products are proposed. Aboriginal cultural fishing practices undertaken under the trial management arrangements in the HLMP will not have a significant impact on matters of national environmental significance or other EPBC matters and there is no need to refer the HLMP to the Department of Agriculture, Water and the Environment (Commonwealth).



5. Communications and engagement

Ongoing extension will play a crucial role for developing support and adoption of the management structure developed under the HLMP. Engagement between HLCFs and the broader Hastings community aims to establish the importance and mutual benefits of open conversation while accelerating the rate of community uptake. Points **5.1** through to **5.4** describe the agreed communications and engagement protocols to be followed under the HLMP.

5.1 Key communication and engagement protocols

Only Birpai traditional custodians can:

- a. talk on matters related to country associated with the HLMP. This includes all press, print or radio (all media and broader stakeholder communications)
- b. endorse content developed during community workshops and how this content is represented in the HLMP
- c. endorse how the HLMP content is made available to the broader stakeholder base for both extension and education purposes.

5.2 Hastings Aboriginal community engagement and education

Aboriginal community activities such as the NAIDOC Week provide a key opportunity for community engagement. On ground advisory during the family fishing day and NAIDOC community days will provide the HCFSC and NSW DPI staff opportunity to engage directly with community.

To maintain regular engagement, appropriate community organisations will also be utilised to engage with the broader Hastings Aboriginal community through the provision and distribution of HCFSC reports, these reports will be provided to:

- Local Aboriginal Land Councils (Birpai LALC and Bunyah LALC)
- traditional custodian meetings
- Port Macquarie Aboriginal Men's Group
- Women's Group
- Elders' Group (Werrin)
- Bearlay Aboriginal Interagency Group
- NSW Aboriginal Education Consultative Group Inc
- Bindi
- Guula-guba Barray Aboriginal Corp
- other local Aboriginal service providers (endorsed by the HCFSC).

5.3 Broader Aboriginal community engagement and education

To maintain engagement with the broader Aboriginal community tailored reports will be provided to:

- AFAC



- NTSCORP
- NSWALC
- Mid North Regional Aboriginal Men's Group.

5.4 Public engagement and education

NAIDOC Week will also be the primary non-Aboriginal community engagement instrument through the presence of an advisory stall and associated activities. Further, to broaden engagement fisheries related Ministerial Councils will be engaged through the provision of tailored HCFSC reports. Where an invitation is extended to attend a meeting of a Ministerial Council the HCFSC will consider and where agreed, nominate an appropriate community representative to attend.

The Ministerial Councils include:

- AFAC
 - Ministerial Fisheries Advisory Council
 - Commercial Fishing NSW Advisory Council
 - Recreational Fishing NSW Advisory Council.
- * *The HCFSC will remain as the first point of contact for the endorsement of any activities as described in the "Key communication and engagement protocols" which include points 5.1 (a), (b) (c) & (d), 5.2, 5.3 and 5.4. A recommendation or endorsement related to communications and engagement must be supported by a majority of HCFSC members, at a meeting of the HCFSC, at which a Birpai traditional custodian is present (to be regarded as a recommendation of the HCFSC).*



Appendix 1. Bag limits for taking and possessing fish

Hastings Cultural Fishing Local Management Plan

Table 4. Fish—Marine or estuarine

Common name	HLMP bag limit	HLMP possession limit
Australian Anchovy	200	200
Banded Rockcod Bass Groper, Bass Grouper, Gemfish Hapuku, Hapuka Blue-eye Trevalla, Trevalla	10 combined, but no more than 4 Gemfish	10 combined, but no more than 4 Gemfish
Billfish Families Xiphiidae and Istiophoridae	2 of each species	2 of each species
Rock Blackfish	20	20
Cobia	25	25
Australian Bonito	20	20
Tarwhine Yellowfin Bream (Gupirr)	40 combined	40 combined
Black Bream, Southern Bream (Gupirr)	40	40
Dusky Flathead (Common Flathead) (Darawang)	40	40
Bluespotted Flathead, Sand Flathead Tiger Flathead Flathead (Darawang)	30 combined	40 combined
Flounder Sole	40 combined	40 combined
Eels Southern Shortfin Longfin (Duunang)	10	10
Eastern Sea Garfish	40	40
Garfish (except Eastern Sea Garfish)	100	100
Eastern Blue Groper, Blue Groper, Brown Groper, Red Groper	4 (only 2 of which can be longer than 60cm)	4 (only 2 of which can be longer than 60cm)

Common name	HLMP bag limit	HLMP possession limit
Largehead Hairtail, Hairtail	20	40
Hardyhead, Silverfish	200	200
Southern Herring	200	200
Yellowtail Kingfish	20	20
Leatherjacket species	40 combined	40 combined
Luderick, Blackfish (Garabiyn)	55	55
Blue Mackerel, Slimy Mackerel	200	200
Spotted Mackerel Spanish Mackerel	20 combined	20 combined
Mahi Mahi, Dolphinfin	20 (only 2 of which can be longer than 110 cm)	20 (only 2 of which can be longer than 110 cm)
Mangrove Jack	20	20
Maray, Round Herring	200	200
Banded Morwong	20	20
Jackass Morwong	20	20
Red Morwong, Sea Carp	20	20
Grey Morwong, Rubberlip Morwong	20	20
Mullet (Mayipuyu)	75	75
Mulloway, Jewfish (Djarrawarra)	20	20
Moses Snapper, Moses Perch	10	10
Pearl Perch	10	10
Australian Sardine, Pilchard	200	200
Eastern Australian Salmon, Australian Salmon	10	10
Samsonfish, Amberjack	10 combined	10 combined
Eastern Red Scorpionfish, Eastern Red Rockcod	10	10
Sharks and Rays (other than Wobbegongs)	10, but no more than 2 tiger sharks, shortfin mako, smooth hammerhead sharks or whaler sharks/blue sharks	10, but no more than 2 tiger sharks, mako sharks, smooth hammerhead sharks or whaler sharks/blue sharks
Snapper	35	35

Common name	HLMP bag limit	HLMP possession limit
(Garanggan)		
Blue Sprat, Bluebait	200	200
Sandy Sprat, Whitebait	200	200
Australian Sawtail, Sawtail Surgeon	10	10
Tailor	65	65
Teraglin	10	10
Trevally	40 combined	40 combined
Albacore, Albacore Tuna Bigeye Tuna Longtail Tuna Yellowfin Tuna	15 combined, of which 4 have a length of 90cm or more and 10 have a length of less than 90cm	15 combined, of which 4 have a length of 90cm or more and 10 have a length of less than 90cm
Wahoo	10	10
Wobbegong (Wabigung)	1	1
Whiting species	55 combined	55 combined
Yellowtail, Jack Mackerel	200	200

Table 5. Invertebrates

Common name	HLMP bag limit	HLMP possession limit
Blacklip Abalone, Abalone	30	30
Beachworm	100	150
Cockle Blue Mussel, Mussel	250 combined	250 combined, with no more than 40 cockles
Pipi*	20 litres	20 litres
Blue Swimmer Crab, Sand Crab (DjiniDjini)	55	55
Mud Crab, Black Crab, Mangrove Crab (DjiniDjini)	20	20
Spanner Crab	20	20
Soldier Crab	100	100
Crab (except for Blue Swimmer Crab, Sand Crab, Mud Crab, Spanner Crab and Soldier Crab)	20 combined	20 combined
Cunjevoi	80	80

Common name	HLMP bag limit	HLMP possession limit
Eastern Rocklobster Southern Rocklobster (Yinga)	10 combined	10 combined
Tropical Rocklobster, Painted Rocklobster, Ornate Rocklobster	5 combined	5 combined
Slipper Lobster, Flat Lobster	5	5
Octopus	20 combined	20 combined
Sydney Rock Oyster Pacific Oyster Native Oyster, Flat Oyster, Drift Oyster (Dhirrabuwi)	20 litres combined	20 litres combined
Molluscs (except squid, octopus and cuttlefish (class Cephalopoda) and any other mollusc referred to in this Table)	40 combined	40 combined
Prawns	60 litres	60 litres
Saltwater nippers	100	100
Scallops	100	100
Sea Urchin	20 combined	20 combined
Squid	40 combined	40 combined
Cuttlefish	40 combined	40 combined
Worms (except beachworms)	200	200
Sydney Turban Snail	65	65
Military Turban Snail	55	55

* Note unless undertaken in line with conditions as outlined in section 3.8(f) of the HLMP or authorised under Section 37 of the Fisheries Management Act 1994, it is an offence under Clause 86 of the Fisheries Management (General) Regulation 2019 for any person to take pipis except for use as bait.



Table 6 Freshwater or estuarine

Common name	HLMP bag limit	HLMP possession limit
Golden Perch, Yellow Belly Perch	20	20
Murray Cod	10	15
Freshwater Catfish, Eel-tailed Catfish Dams (Wilang)	10	20
Freshwater Catfish, Eel-tailed Catfish Dams Rivers (Wilang)	10	10
Australian Bass Estuary Perch	10 combined	10 combined
Atlantic Salmon Brook Trout Brown Trout Rainbow Trout	10 combined	10 combined

Table 7. Invertebrates - freshwater

Common name	LMP bag limit	LMP possession limit
Spiny Crayfish (other than Murray Crayfish) (Yinga)	20 combined	20 combined
Yabby (Yinga)	400	400

Appendix 2. Maps

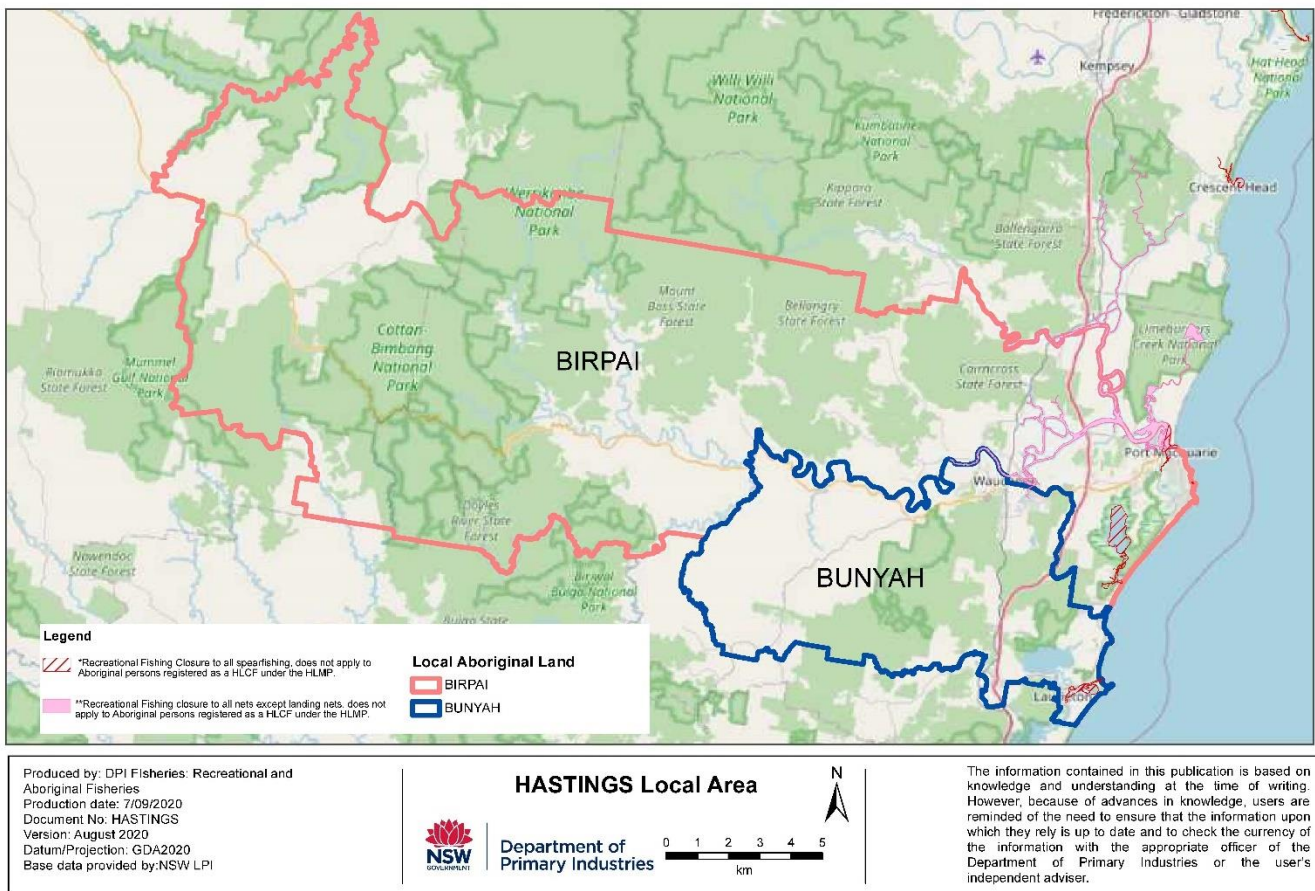


Figure 2. Geographical extent of the Hastings Cultural Fishing Local Management Plan

Figure 3. Hastings local area map (north)

Appendix 3. Community identified cultural fishing aspirations.

Table 8. Community events

Subcategory	Activity	Objective	Season / Frequency
General community events	All types of fishing	Connecting community	4 times annually
Women's camp	All types of fishing	Connecting women	Whenever appropriate
Men's camp	All types of fishing	Connecting men	Whenever appropriate
Youth events	All types of fishing	Connecting community/youth	Whenever appropriate

Table 9. Family events

Subcategory	Activity	Objective	Season / Frequency
Christmas	All types of fishing	Connecting family	December/January
Easter	All types of fishing	Connecting family	April
Weddings	All types of fishing	Connecting family	Whenever appropriate

Table 10. Cultural fishing (seasonal harvest)

Subcategory	Activity	Objective	Season / Frequency
Mullet (<i>Mayipuyu</i>)	Hauling or meshing net	Cultural harvest	During the mullet run
Bream (<i>Gupirr</i>)	All types of fishing	Cultural harvest	Seasonal
Luderick (<i>Garabiyn</i>)	All types of fishing	Cultural harvest	Seasonal
Whiting	All types of fishing	Cultural harvest	Seasonal
Tailor	All types of fishing	Cultural harvest	Seasonal
Freshwater Crayfish (<i>Yinga</i>)	All types of fishing	Cultural harvest	Seasonal

Appendix 4. Traditional fishing gear definitions

Table 11. Traditional fishing gear

Gear	Description
Traditional woven trap / net	Means a fish trap in the form of basket trap, hand-held net, baited cane and weir (stick barrier) traps constructed of natural or synthetic fibres and materials based on traditional construction and weaving techniques used for both constructing and mending traps or nets. For use in fresh and saltwater.
Stone trap	Means rock pools working as natural tidal fish traps where fish caught in the pools can be collected or speared or, on a larger scale, existing constructed or naturally occurring stone weirs designed to trap fish in shallow lagoons, in both fresh and saltwater.
Foam bark	Means using <i>J pseudorhus</i> (commonly named foambark) growing naturally in the Hastings region, as a de-oxygenator of waterway pools for temporarily suffocating fish enabling easier catching.
Crab wire	Means an implement made from a small-diameter, round, steel bar, with one end bent into a right-angle hook, which is hooked behind the crab to drag within reach of hand capture.
Hand spear	Means a hand or rubber propelled straight shafted spear constructed of natural or synthetic materials with single spear point or prong, or multi-pronged head, for use in fresh or saltwater.



Appendix 5. Hastings Cultural Fishing Steering Committee - Terms of Reference

Responsibilities

- monitoring the project's key objectives
- reviewing and providing advice on changes to key objectives if required
- reviewing and approving changes made to project scope and goals in cooperation with the NSW DPI
- suggesting strategic decisions to maintain project viability
- reviewing, suggesting and advising on solutions for any issues critical to completing the trial
- endorsing of communication and engagement activity
- conflict resolution where project objectives may be compromised.

Membership

The membership of the Steering Committee will be comprised of 8 community members in total with each having a nominated deputy and will have a balanced representation between:

- gender
- elder
- youth (> 14 < 18)
- traditional custodians
- key area representation.

The nomination of a deputy must be approved by:

- at the time the member is elected - the Community by vote, or
- at any other time – a majority of the members of the HCFSC.

If a member is unavailable, then the deputy will act in the place of the member. While acting in the place of the member, the deputy has all the functions of the member.

The DDG DPI Fisheries will nominate a NSW DPI Fisheries Manager and a NSW DPI Fisheries Compliance Officer who will be members of the HCFSC – but will not be entitled to vote at meetings of the HCFSC.

A member's position will become vacant if:

- the member dies, or
- the member resigns from the HCFSC by writing to the HCFSC, or
- the member is absent from 3 consecutive meetings of the HCFSC of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the HCFSC, or
- the member becomes a mentally incapacitated person, or
- the member is convicted of an offence under the FM Act.



If a member's position becomes vacant, the HCFSC must call for expressions of interest in the position. The HCFSC must run a ballot to determine who will fill the vacancy in the HCFSC. All HLCFs will be entitled to vote in the ballot.

Secretariat

The Secretariat for the Committee will be provided by NSW DPI to;

- organise meetings
- coordinate members
- compile the meeting agenda
- compile meeting papers and incoming correspondence
- prepare draft outcomes and circulate
- maintain files and records of meetings and membership
- maintain the HLCF database.

Where possible, the Secretariat will provide papers to members or their deputy at least 10 business days prior to meetings.

Committee members will be required, where possible, to provide any items for the agenda and any supporting papers to the Secretariat at least 15 business days prior to meetings.

The Secretariat will provide Minutes of Committee meetings to members within 10 business days of each meeting.

Meetings

- three meetings a year will be scheduled, with extraordinary meetings held as required
- unless otherwise notified by the Chair, members must attend meetings in person
- meetings will take place at an agreed time and location, subject to consultation with members or their deputy
- meetings may take place by video link / telephone if deemed necessary by the Chair
- at least 5 business days' notice will be given before any extraordinary meeting is called
- a minimum of 5 voting members must be present to achieve a quorum for voting purposes.



Appendix 6. Appeals process

Hastings Cultural Fishing Local Management Plan

This guideline outlines the process by which a person or persons may appeal these decisions made by the DDG DPI Fisheries:

- refusal of an application for recognition as a Hastings Local Cultural Fisher, or
 - revocation of recognition as a Hastings Local Cultural Fisher.
1. an appeal request must be made in writing to the Secretariat of the HCFSC:
HCFSC Secretariat
NSW Department of Primary Industries Fisheries
Locked Bag 1| Nelson Bay NSW 2315

Or
email to Aboriginal.fishing@dpi.nsw.gov.au
 2. the appeal request for refusal of recognition as a HLCF must outline the appellant's reasons for an appeal and must:
 - specifically address DDG DPI Fisheries' reasons why the appellant was found not to be a HLCF
 - comment on how the appellant meets the eligibility criteria that NSW DPI considers have not been met, and
 - include any information and supporting evidence that supports the applicant's reasoning.
 3. the appeal request for revocation of recognition as a HLCF must outline the appellant's reasons for an appeal and must:
 - specifically address the reasons for the DDG DPI Fisheries' decision to revoke the person's recognition as a HLCF, and
 - include any information and supporting evidence that supports the applicant's reasoning.
 4. once an appeal request is received the details are to be recorded into the Internal "Appeals Tracking spreadsheet INT22/13486" by the HCFSC Secretariat located in V17/4759#6 where detail is to be recorded in full
 5. within 2 business days of receipt, HCFSC Secretariat will bring the request to the attention of the HCFSC
 6. the appeal will be determined by a senior officer of the Department not involved in the initial decision (the Allocated Officer) and will be conducted within 30 business days of receipt of the written letter of appeal. The Allocated Officer will consider:
 - the deliberations of the HCFSC which lead to the original recommendation to the DDG DPI Fisheries, as recorded in the official minutes of meeting
 - the original decision Brief of the DDG DPI Fisheries
 - the information set out in the appeal request
 - any information provided by the HCFSC on the information in the appeal request
 - in the case of the revocation of recognition, any information provided by NSW DPI Fisheries Compliance, and

- any information provided by the appellant in response to the information provided by the HCFSC and NSW DPI Fisheries Compliance.
7. the Allocated Officer may contact the appellant or the HCFSC to discuss the appeal and to seek further information
 8. the appeal decision is final and will be advised in writing to the applicant by the Secretariat of the HCFSC.



Appendix 7. Engagement Protocol

Development of Aboriginal Cultural Fishing Trial Local Management Plans (LMPs)

Background

The NSW Government, in conjunction with engaged local Aboriginal communities (Aboriginal communities), is trialling Local Management Plans (LMPs) for Aboriginal cultural fishing in pilot regions across NSW. The Aboriginal Fishing Advisory Council (AFAC) has supported exploring and conducting a number of pilot LMPs in coastal and inland NSW to assess whether the approach delivers on Aboriginal communities' expectations and promote improved management of fisheries resources.

Purpose

LMPs will be trialled to determine their effectiveness in addressing the cultural fishing aspirations of Aboriginal communities, and whether or not they should be implemented more broadly across NSW. They are part of the NSW Government's broader investigations into protecting and promoting the continuation of Aboriginal cultural fishing.

Trial LMPs will establish a separate management framework to provide Aboriginal communities with access to local fisheries resources for cultural fishing purposes. The LMPs will recognise existing management arrangements which seek to maintain fisheries resources for the present and future needs of all fishing sectors.

LMPs are intended to be developed through respectful and meaningful negotiations between Aboriginal communities and the NSW Government.

The [Aboriginal Cultural Fishing Interim Access](#) Arrangement (Interim Access Arrangement) will remain in place during the trials to ensure broader community cultural fishing access continues to be supported. Authority to fish beyond what is provided for under the Interim Access Arrangement will also continue to be available under section 37 of the *Fisheries Management Act 1994* (the Act).

This Engagement Protocol seeks to establish the agreed principles for developing LMPs and engaging with Aboriginal communities, AFAC, the NSW Aboriginal Land Council (NSWALC) and NTSCORP.

Goal and objectives

Goal - to assess the capacity of LMPs to deliver on Aboriginal communities' expectations, support Aboriginal cultural fishing and promote improved management of fisheries resources.

Objectives - to engage Aboriginal communities in the development of trial LMPs and take part in the evaluation of their success, leading to active and ongoing involvement of the Aboriginal communities in the management of fisheries resources.



Principles for trial LMP negotiations

A set of eight principles has been developed to guide LMP negotiations. These principles are intended to help parties to an LMP negotiation understand their roles and responsibilities, the behaviours expected of them, and the desired outcomes of the process. These principles, and any other relevant principles as negotiated with the Aboriginal communities, will be relied on to guide the negotiation process.

Negotiation principles

1. participation in trial LMP negotiations and discussions is voluntary. Parties must agree to participate and may withdraw from the negotiations at any time
2. discussions and negotiations must be conducted in good faith. Good faith negotiations – in the context of the LMP trials – means all parties must act honestly; each party must have regard to the legitimate interests of the other parties; and no party may act in a manner which is arbitrary, capricious or intended to cause harm to the other parties
3. negotiations will be conducted transparently in terms of process, options and information-sharing
4. a shared understanding and good relationships between parties will be the foundation for success
5. agreements should be reached based on free, prior and informed consent. This requires participants having the capacity, capability and advice to participate in trial LMPs
6. the outcomes of an LMP should be equitable and accessible for all Aboriginal communities covered by the plan
7. the parties involved should take a broad perspective of what the LMP objectives are and be flexible and adaptable in developing negotiated outcomes
8. outcomes should be solutions-focused and deliver social and cultural benefits for Aboriginal communities and greater certainty for the NSW Government.

Governance

LMP trials will be subject to community-led negotiation processes. However, it is recognised that a number of organisations have critical roles in providing expert advice, supporting Aboriginal communities and providing input into the LMP process. These include:

- any community negotiation teams (as established by the Aboriginal communities)
- AFAC
- NSWALC and LALCs
- NTSCORP
- NSW Government.

Protection and use of cultural information and knowledge

Culturally sensitive information will not be shared or published unless permission is granted by Aboriginal community members. Any information that is agreed to be shared or



published will be in a format that is agreed to by the Aboriginal community members engaged in the development of the LMP.

General guiding principles

1. concerns associated with providing information to the Department of Primary Industries Fisheries (DPI Fisheries) will be identified, documented and discussed with the Aboriginal communities involved before the commencement of any case studies or negotiations
2. discussions related to the development of trial LMPs will be framed around ensuring that Aboriginal peoples do not incriminate themselves. Any information sought from Aboriginal communities during the LMP process will focus on identifying the fishing aspirations of Aboriginal communities and proposed future fishing activities
3. DPI will not disclose any confidential or culturally sensitive information to any other party unless required by law
4. discussions related to the development of LMPs will not directly involve DPI Fisheries compliance staff, unless there is community agreement to include them in the development. Early engagement of compliance staff can be beneficial to building relationships between community and the compliance arm of the NSW DPI. It is also the case that compliance can validly assist the process through interpretation of the best way to go about activities in support of community aspirations
5. all project staff must adhere to these principles.

Community and stakeholder roles

AFAC

The AFAC will have an advisory and review function in the design and implementation of the LMPs. This may include identifying trial locations as well as advising on the design, approach, implementation and evaluation of LMPs.

NSWALC

NSWALC may be involved in supporting LALCs through the LMP process, where requested by LALCs.

NTSCORP

NTSCORP may be requested by traditional owner groups to provide advice to traditional owners through the LMP process.

LMP Community negotiation teams (if and where applicable)

Local Aboriginal communities may wish to establish community negotiation teams. If established, negotiation teams are to actively take part in negotiations and to drive community input into trial LMPs. This may include:



- participating in LMP negotiations
- designing and making recommendations about the content of LMPs
- helping to establish contacts in Aboriginal communities
- helping to provide relevant information to members of the community they represent
- monitoring and evaluating outcomes of LMP.

Decision-making

Negotiations about the scope, design and implementation of trial LMPs will take place between DPI Fisheries and the Aboriginal communities. Negotiations will be guided by Aboriginal community needs and expectations, with regard to the overall sustainable management of fisheries resources.

Aboriginal communities will determine the relevant decision-making processes and procedures.

Legal effect of trial LMPs

LMPs will be implemented and given legal effect with an order made under section 37 (3) (b) of the Act. This will ensure that activities under LMPs are captured under NSW fisheries legislation, and are provided with clear protection from prosecution for an offence against the Act, or its regulations.

Native title

Trial LMPs will not affect any native title rights. In line with section 287 of the Act, LMP arrangements made under the Act do not affect the operation of the *Native Title Act 1993* (Commonwealth) or the *Native Title (New South Wales) Act 1994* in respect of the recognition of native title rights and interest within the meaning of the Commonwealth Act.

Scope of trial LMPs

Trial LMPs will cover matters including:

- areas of fishing and access
- fishing equipment to be used
- species of fish (including those of particular significance)
- agreed limits (if any)
- ongoing engagement arrangements
- community based management of cultural fishing, such as self-regulation principles and who the LMP applies to.

Selecting trial locations and extent

The following three locations have been selected for LMP trials on the advice of AFAC:



- Tweed
- Moama
- Port Macquarie.

The extent of a 'trial location' will be limited to geographical areas that encompass lands, waters and culturally significant areas as agreed between the Aboriginal communities involved and DPI Fisheries.

Strategy, methodology and process

Parties to trial LMPs

LMP discussions and negotiations are intended to be held with as many members of the Aboriginal communities as possible. This is to ensure that finalised LMPs best reflect and represent the fishing aspirations and expectations of the Aboriginal communities.

Parties to the development of an LMP may include:

- NSW Government (including AFAC)
- members of local Aboriginal communities
- local Aboriginal organisations
- LALCs
- NSWALC
- NTSCORP
- any relevant prescribed body corporate, native title holders or traditional owners.

AFAC will be engaged in matters of importance to Aboriginal communities and will assist in getting communities involved in the process. Similarly, the NSWALC and NTSCORP will be directly engaged to provide advice on facilitating plans and community support.

Where possible, it is proposed that *negotiation teams* be formed (made up of representatives from the Aboriginal communities) that will meet with the NSW Government to negotiate their respective LMPs, and to agree on how to progress them. The process, including how community representatives will be selected, will be led by and agreed within, each community and may vary by region.

Facilitation of meetings and negotiations

Where possible, LMP discussions will be facilitated by an independent facilitator. At a minimum, a facilitator will:

- be independent and have no real or perceived conflicts of interest
- have advanced negotiation and mediation skills and experience in facilitating complex negotiations within a set timeframe
- have an understanding of Aboriginal cultural fishing and marine-related issues (including fisheries resource management)
- have appropriate knowledge and understanding of Aboriginal cultural values and protocols.



Information and data

Printed materials will be organised for Aboriginal community members to assist in providing focused input for the development of plans. Ongoing communication over the phone with the relevant NSW DPI staff will also be available for interested community members to discuss points of view at any stage of the process.

Timeframes

LMPs in all pilot locations are intended to be developed within timeframes as supported by the Aboriginal communities.

Resourcing and community support

Costs associated with meetings will be covered by DPI, including:

- venue hire and catering
- community transport to meetings where needed (e.g., cost for Aboriginal communities to be transported to meetings)
- communications and promotion (e.g., costs of postage, printing and advertising).

Engagement and feedback

Identifying and contacting community members

AFAC members have identified initial contacts in the pilot locations.

Consultation with the broader community will be driven by advice from the Aboriginal communities.

Community meetings (Primary)

Where possible, the primary form of communication with Aboriginal communities will be through face-to-face meetings. This includes:

- an initial series of community meetings to explain the LMP concept, obtain feedback on appropriate consultative arrangements and whether community members would be interested in participating
- workshops to enable direct community input into the development of their respective LMP pilot trial.

The locations of the community meetings will be identified through consultation with various Aboriginal representative bodies, organisations and individuals.

Where possible a minimum of one month's notice will be provided for meetings.



Information brief

An information package will be made available to broadly explain and summarise the LMP concept.

Media

Notice of workshops and other consultation activities will be announced through relevant communication sources. This includes drawing on stakeholder networks and if necessary and where supported by key community contacts, any or all of: NSW DPI media releases; advertisements in local newspapers; LALC newsletters; and local radio.

Form and manner of feedback

Direct engagement and input into the LMP pilot trials will be through Aboriginal community workshops (using an independent facilitator where possible). LMP community negotiation teams (if implemented) will provide feedback which will be collated for consideration. Aboriginal people the plan relates to and their organisations as well as government agencies will also be provided opportunities to provide written.

Evaluation of trial LMPs

Trial LMPs will be monitored during their implementation, followed by an evaluation period of 12 to 24 months after implementation. Aboriginal communities will be involved in the monitoring and evaluation process of their LMPs. Measures of success will be developed in consultation with Aboriginal communities.

Review of this Engagement Protocol

This Engagement Protocol will be reviewed in line with the evaluation of the trial LMPs. Aboriginal communities will be involved in the review of this document.



Appendix 8. Pilot program evaluation framework

Aboriginal Cultural Fishing Local Management Plan (LMP)

Introduction

Fishing is an important part of the cultural life for Aboriginal communities and forms an integral component of connection to traditional country. The spiritual, social and customary significance of fisheries resources to Aboriginal people is recognised in the [objects](#) of the *Fisheries Management Act 1994* (the Act), along with protection and promotion of Aboriginal cultural fishing. The Act defines it as “fishing activities and practices carried out by Aboriginal persons for the purpose of satisfying their personal, domestic or communal needs, or for educational or ceremonial purposes or other traditional purposes, and which do not have a commercial purpose”.

Protecting and promoting Aboriginal cultural fishing access is currently provided for by:

- exemption from paying recreational licence fee
- the [Aboriginal Cultural Fishing Interim Access Arrangement](#), which allows for extended bag and possession limits
- [Section 37 of the Act](#), which allows the Minister to further extend cultural fishing access.

Consultation undertaken with Aboriginal people regarding cultural fishing access arrangements identified that exploration of a model that better addressed local community aspirations was needed before committing to a specific approach. Development and trial of the Aboriginal Cultural Fishing Local Management Plan approach is now under way, which will be evaluated and inform the way forward for cultural fishing management moving forward.



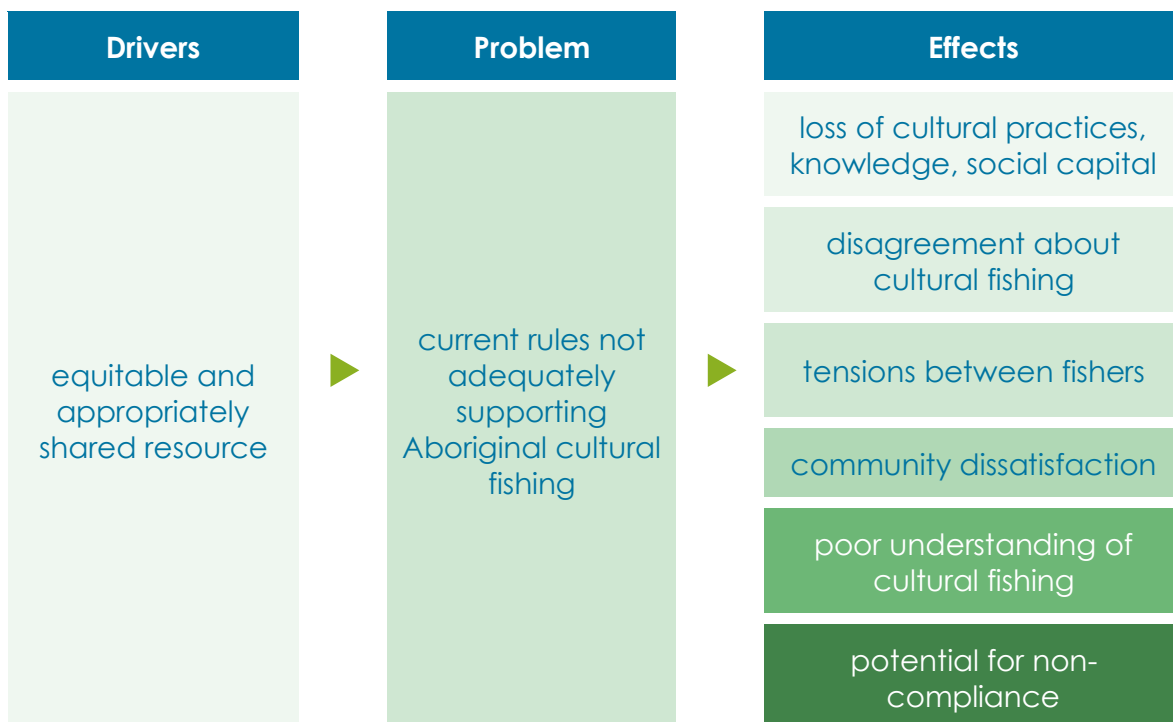


Figure 4. Task definition

Aboriginal Cultural Fishing and Local Management Plans

To improve Aboriginal cultural fishing arrangements, the Department of Primary Industries (DPI) is piloting an approach that seeks to explore alternative arrangements for Aboriginal cultural fishing activities through locally negotiated plans. Local management plans (LMPs) will trial a separate management framework to provide access to fisheries resources for cultural fishing purposes.

LMPs are intended to be developed through respectful and meaningful negotiations between Aboriginal communities, and the NSW Government. The preparation of the LMPs will be based on Aboriginal people's interests in cultural fishing and their knowledge of land, water, sea, fauna and flora. They will cover matters such as: access, equipment and methods, bag and possession limits (if any) self-governance and management arrangements.

Purpose of the evaluation

Evaluation of this pilot project will inform future decisions about how Aboriginal cultural fishing in NSW is managed into the future, including any future process to commence section 21AA of the FMA Act. The primary purpose of this evaluation is to consider whether LMPs are an effective, efficient and appropriate method to preserve and manage cultural fishing at a local level. Evaluation will also look at the approach taken to develop the LMPs.

The sharing of knowledge about cultural fishing is very important to the fabric of Aboriginal communities and can contribute to sense of well-being and connection to Country. There are also spiritual, educational, environmental and social dimensions to Aboriginal cultural fishing.

While these ancillary benefits will be included in the evaluation of the LMPs, the key focus will be the effectiveness of the LMPs in managing the fisheries resource.

Audience for the evaluation

The primary stakeholders invested in the results of the evaluation are the Aboriginal communities engaged in the preparation and trial of the LMPs. However, the primary audience for the evaluation report on the pilot is the Minister for Primary Industries as it is the Minister who will make decisions on the future of regulation of Aboriginal cultural fishing.

Evaluation methodology

The key evaluation questions for LMP pilot project flow from the project logic. It is intended that all aspects of the project logic are tested with at least one evaluation question focusing on each component. Table 2 summarises the key evaluation questions, indicators, timing and method of data collection following on from the project logic framework.

Table 12. Evaluation team – roles and responsibilities

Title	Function	Who?
Evaluator (s)	Prepare evaluation framework (this document) Design and conduct surveys Undertake analysis of data Write report	Review team
Fisheries scientist	Provide data on resource status at key points in time (TBA) Assist in interpretation of data	Michael Lowry
Facilitator	Contribute to evaluation framework and survey design Assist in survey distribution and collection of surveys Contribute to the preparation of the report	Hayley Egan HCFSC
LMP convenors	Contribute to evaluation framework and survey design Assist in survey distribution and collection of surveys Contribute to the preparation of the report	Carl Bevilacqua Joel Wilson Mika Malkki
Reference group	Contribute to the final evaluation framework Review final report	NSWALC and NTS Corp, HCFSC
Participants	Contribute to the evaluation framework Complete surveys as requested	Aboriginal Community

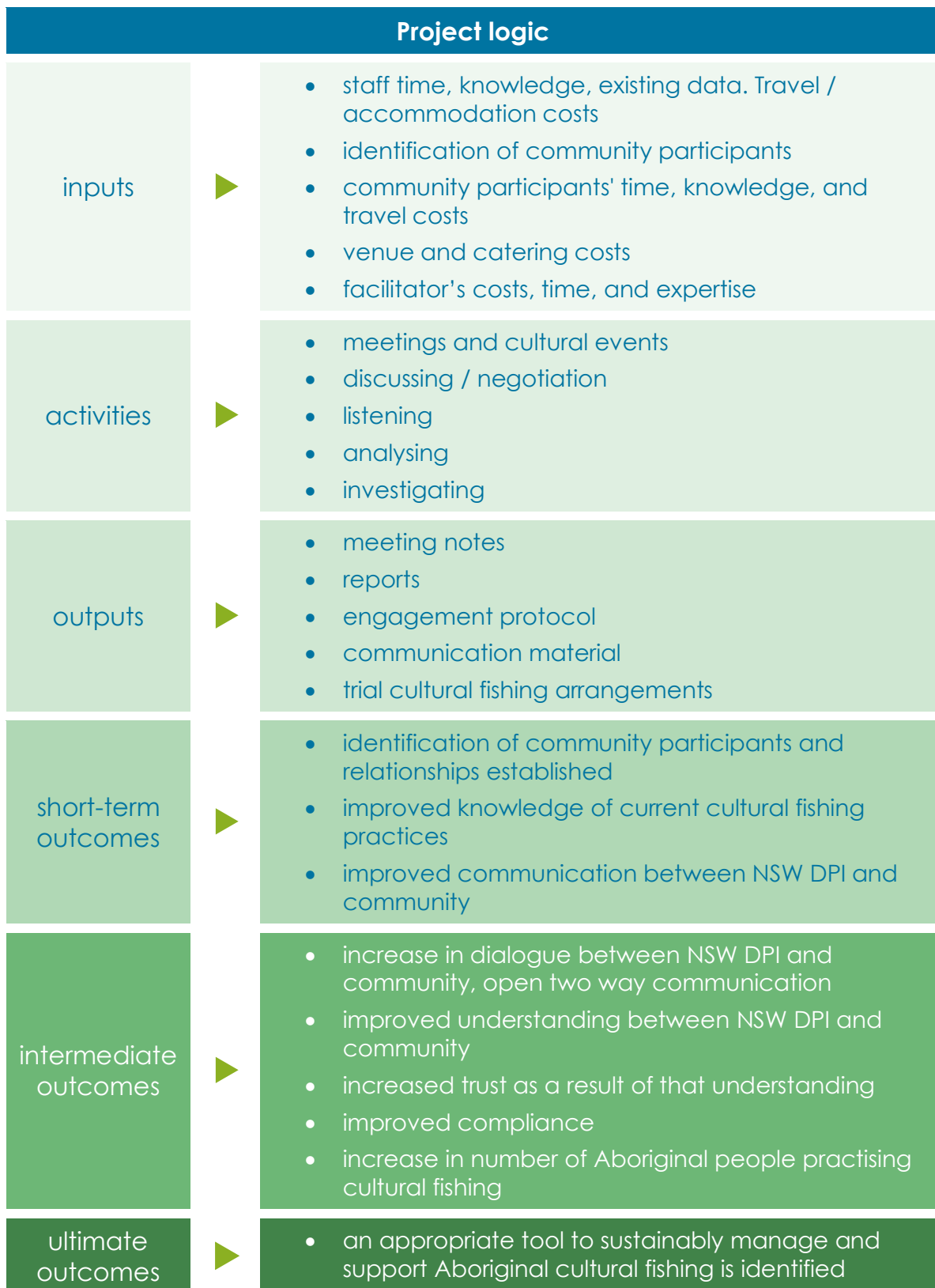


Figure 5. Project logic

For the project to be successful, it will be important that

- there is sufficient continuity in participation to allow the preparation of the LMPs
- that participants feel a sense of ownership of the LMPs
- the process of the preparation of the LMP trial is a positive experience and results in improved relationships between DPI and community
- the process is not rushed, and appropriate community consultation processes occur.

Protection of privacy

All participant information will be collected, stored and managed consistent with the departmental Privacy Management Plan. This plan reflects the agency's responsibilities under the *Privacy and Personal Information Protection Act 1998*. The evaluation of the LMPs will apply the 12 privacy principles outlined in the Privacy Management Plan. We will only collect personal information that is necessary for the evaluation and only when authorised to do so by the participants in the evaluation.

Communication of findings

As noted above, the primary audience for the evaluation of the LMPs is the Minister for Primary Industries. The Minister will be briefed at key milestones in the pilot process and a short report will be prepared at the completion of the evaluation for his / her consideration. The Reference Group will also be advised on progress of the LMPs at each of its meetings and provided with a summary of the evaluation. Participating communities will be verbally briefed on progress

- at community events
- through the Hastings Cultural Fishing Steering Committee
- through key service providers during the development of the plans.

Summaries such as fact sheets and other material will be available at key points in the evaluation process.



Table 2: Evaluation approach

Components		Question	Indicator	Timing	Data collection
Input	staff time, knowledge and travel costs community participants' time, knowledge and travel costs venue and catering costs facilitator's time and expertise existing information & data review	Were the inputs sufficient and timely? Is the LMP (LPM) process an efficient use of resources?	Cost of preparation of LMP Knowledge of cultural fishing rules	End of project	Departmental costs estimate via finance systems / logs Participants to record costs Staff and facilitator to estimate / record time spent Cost of facilitator
Activities	identification of communities meeting and cultural events discussing / negotiation listening analysing investigating	Do non-participants feel represented by participants? Does the meeting environment encourage good participation and sharing of information?	Acceptance of outputs Sense of being heard	End of project [Baseline], midpoint and end of project	Non-participant / comparative survey Participant survey
Outputs	meeting notes reports rules about cultural fishing	Does the meeting structure support good participation? Does the process lead to an increased level of understanding of current Aboriginal cultural fishing provisions?	Level of transparency in decision making Level of understanding (both govt & community)	[Baseline], midpoint and end of project	Participant survey DPI Fisheries Integrated Monitoring Program (cultural fishing component)

	Components	Question	Indicator	Timing	Data collection
Short-term Outcomes (i.e. during plan preparation)	improved knowledge of current cultural fishing improved communication between DPI and community	Does the process of preparation of the LMP provide a forum for increasing knowledge and improved communication between DPI and community?	Level of knowledge (both govt and participants) Quality of interactions	[Baseline], midpoint and end of project	DPI Fisheries Integrated Monitoring Program (cultural fishing component)
Intermediate Outcomes (i.e. plan implementation)	improved understanding between DPI and community Increased trust as a result of that understanding Improved access to fisheries resource	Does the process of the preparation of the LMP: provide a forum for improved understanding between participants? increase confidence that Government understands community cultural fishing needs? increase the satisfaction in how the Government approaches cultural fishing? increase confidence in the compliance of the current fishing rules?	Level of engagement Level of understanding Level of trust (both govt and participants)	[Baseline], midpoint and end of project	Participant survey DPI Fisheries Integrated Monitoring Program (cultural fishing component)

	Components	Question	Indicator	Timing	Data collection
Ultimate Outcomes (at end of trial period)	An appropriate tool to sustainably support Aboriginal cultural fishing is identified	Does the LMP capture cultural fishing in a way that can be complied with? Are management arrangements developed for the LMP sustainable over time?	Cultural sensitivity	End of project Post implementation of LMP	Participant survey DPI Fisheries Integrated Monitoring Program (cultural fishing component)

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