

Tweed Aboriginal Cultural Fishing Local Management Plan

(Trial Plan)



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Statement by the Tweed Aboriginal Saltwater People

We are saltwater people. We are an integral part of our country. We serve as guardians, our lores and customs provide a foundation for our cultural management practices that we maintain and hand down to ensure our people, resources and country are heathy and connected well into the future.

Our ancestors have hunted and fished this country since the beginning of time. These cultural practices, knowledge and connection to country still remain vital to our identity and way of life today.

Designing and playing a part in the broader management of our resources is essential to our people. Maintaining cultural continuity in the form of passing down knowledge and practices will ensure our responsibilities and obligations to protect our country are met. It is part of us; it sustains our spiritual and physical health.

Acknowledgement

Department of Primary Industries - Fisheries

The Department of Primary Industries 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 Tweed Aboriginal Cultural Fishing Local Management Plan. Further appreciation is expressed to all the Aboriginal people in the Tweed 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.

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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-EHG	NSW Department of Planning and Environment - Environment and Heritage Group
EF	Tweed 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	Environmental Planning and Assessment Act 1979
EPBC Act	Environment Protection and Biodiversity Conservation Act 1999
FCU	Fisheries Compliance Unit
FM Act	Fisheries Management Act 1994
FMA Act	Fisheries Management Amendment Act 2009
FMG Regulation	Fisheries Management (General) Regulation 2019
HPZ	Habitat Protection Zone
TLCF	Tweed Local Cultural Fisher
TCFBL	Tweed Cultural Fishing Bag Limit
TLMP	Tweed Cultural Fishing Local Management Plan
TCFPL	Tweed Cultural Fishing Possession Limit
TCFSC	Tweed Cultural Fishing Steering Committee
IMP	Integrated Monitoring Program
LALC	Local Aboriginal Land Council
LMP	Local Management Plan
MEM Act	Marine Estate Management Act 2014
MEMMR Regulation	Marine Estate Management (Management Rules) Regulation 1999
MEM Regulation	Marine Estate Management Regulation 2017
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) of which DPI Fisheries is a part.
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
SZ	Sanctuary Zone

1. Introduction to Aboriginal Cultural Fishing Local Management Plan trials

1.1 Background

The Aboriginal Cultural Fishing Local Management Plan (LMP) trials are a result of the need to address resource access aspirations with recognition to the differences in cultural needs and practices that exist across the many communities. What is of key importance to one community may not necessarily be the case in another, and quite simply may not be reflective of acceptable practice in yet another. In address, an attempt to understand how more localised arrangements can effectively be implemented is being undertaken through the trial of LMPs. The LMP approach is a way to describe a comprehensive suite of arrangements applicable to cultural fishing activities within a geographical area, which have been identified through an engaged community and developed in partnership into agreed management rules.

1.2 Tweed Aboriginal Cultural Fishing Local Management Plan trial

The Tweed Aboriginal Cultural Fishing Local Management Plan (TLMP) is one of two trials being conducted along the NSW coast, the other being in the Hastings region. The trial management measures offer Aboriginal community involvement in the management of fisheries resources and seek to support culturally important fishing activity and access to the fisheries resource for Aboriginal people. The trial TLMP 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 The Tweed & Brunswick River Catchments

The area for the case study lies within the Tweed and Brunswick River catchments. Located on the NSW far north coast, the Tweed catchment entails an area of 1326 square kilometres bordered by the McPherson, Burringbar, Condong and Tweed ranges east to the Pacific Ocean and covers 84 kilometres of coastline. The Brunswick is a small catchment of just 520 square kilometres with the Burringbar and Koonyum Ranges forming the western and southern boundaries. The far 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 TLMP development is the “*Engagement Protocol: Development of Aboriginal Cultural Fishing Trial Local Management Plans*” (**Appendix 7**). 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 TLMP reflects and represents, where possible, their fishing aspirations and expectations. Community members met with DPI Fisheries staff through a series of independently facilitated workshops to negotiate the process and to frame content of the TLMP.

2.2 Parties to the development of the Tweed Local Management Plan

Parties involved in the development of the TLMP include:

- Traditional Custodians
- Members of the local Aboriginal Community
- Local Aboriginal service providers and organisations
- Tweed Shire Aboriginal Advisory Committee
- Tweed Men’s Group
- Tweed/Byron Local Aboriginal Land Council;
- Minjungbal Aboriginal Cultural Centre
- Tweed/Wollumbin Aboriginal Education Consultative Group;
- Tweed Aboriginal Cooperative Society;
- Canowindra Aged Care Facility;
- Tweed Corporation for Sport (Stingrays);
- Bugalwena Aboriginal Health Service and other community representatives
- NSW Department of Primary Industries
- Aboriginal Fishing Advisory Council (AFAC)
- NSW Aboriginal Land Council (NSWALC)
- Native Title Services Corporation (NTSCORP)
- Barefeet (Independent consultant)

The AFAC provides strategic level advice to the Minister for Agriculture 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 Tweed 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 TLMP 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 LMP includes:

- the term of the plan
- a description of the applicable waters
- defining who is a local Aboriginal cultural fisher under the plan
- a 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. Tweed 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 objects of the *Marine Estate Management Act 2014* (**MEM Act**) seek to facilitate the cultural, social and recreational use of the marine estate. 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**),
- MEM Act, Marine Estate Management (Management Rules) Regulation 1999 (**MEMMR Regulation**) and Marine Estate Management Regulation 2017 (**MEM 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 TLMP 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*
- d. biological diversity,*

and, consistently with those objects:

- a. to promote viable commercial fishing and aquaculture industries, and*
- b. to promote quality recreational fishing opportunities, and*
- c. to appropriately share fisheries resources between the users of those resources, and*

- d. *to provide social and economic benefits for the wider community of New South Wales, and*
- e. *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) 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.*

The objects of the Marine Estate Management Act 2014 are –

- a. *to provide for the management of the marine estate of New South Wales consistent with the principles of ecologically sustainable development in a manner that –*
 - i. *promotes a biologically diverse, healthy and productive marine estate, and*
 - ii. *facilitates –*
 - *economic opportunities for the people of New South Wales, including opportunities for regional communities, and*
 - *the cultural, social and recreational use of the marine estate, and*
 - *the maintenance of ecosystem integrity, and*
 - *the use of the marine estate for scientific research and education,*
- b. *to promote the co-ordination of the exercise, by public authorities, of functions in relation to the marine estate,*
- c. *to provide for the declaration and management of a comprehensive system of marine parks and aquatic reserves.*

The primary purpose of marine parks is “*to conserve the biological diversity, and maintain ecosystem integrity and ecosystem function, of bioregions in the marine estate.*”

The secondary purposes of marine parks, where consistent with the primary purpose, are:

- a. *to provide for the management and use of resources in the marine park in a manner that is consistent with the principles of ecologically sustainable development, and*
- b. *to enable the marine park to be used for scientific research and education, and*
- c. *to provide opportunities for public appreciation and enjoyment of the marine park, and*



- d. *to support Aboriginal cultural uses of the marine park.*

The objects of a sanctuary zone in a marine park are:

- a. *to provide the highest level of protection for biological diversity, habitat, ecological processes, natural features and cultural features (both Aboriginal and non-Aboriginal) in the zone, and*
- b. *where consistent with paragraph (a), to provide opportunities for the following activities in the zone –*
 - i. *recreational, educational and other activities that do not involve harming any animal or plant or causing any damage to or interference with natural or cultural features or any habitat,*
 - ii. *scientific research.*

The objects of a habitat protection zone in a marine park are:

- a. *to provide a high level of protection for biological diversity, habitat, ecological processes, natural features and cultural features (both Aboriginal and non-Aboriginal) in the zone, and*
- b. *where consistent with paragraph (a), to provide opportunities for recreational and commercial activities (including fishing), scientific research, educational activities and other activities, so long as they are ecologically sustainable and do not have a significant impact on any fish populations or on any other animals, plants or habitats.*

3.2 Local Management Plan, Cultural Fishing Authority

Section 37(1)(d) of the FM Act 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 (Section 37(3)). An Order made under Section 37(3)(b) of the FM Act will underpin the TLMP trial.

An approval under Section 37 of the FM Act 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.

Clause 1.11(2) of the MEMMR Regulation allows the Minister for Environment and Heritage and the Minister for Agriculture (**the relevant Ministers**) to consent to harming of fish or marine vegetation in a Sanctuary Zone (SZ) for the purposes of traditional use. Clause 1.16(2) of the MEMMR Regulation allows the relevant Ministers to consent to harming of an animal (other than fish) or marine vegetation in a habitat protection zone (HPZ) for the purposes of traditional use. Consent is given by granting a permit to a person or class of persons. The relevant Ministers may also consent to fishing activities and the taking of protected species for a marine park (clause 1.17, clause 1.30). Consent granted under Part 2 of the MEM Regulation is required to allow fishing in the Marshalls Creek Sanctuary Zone and the parts of the Brunswick River Habitat Protection Zone (HPZ) located within Marshalls Creek in the Cape Byron Marine Park that lie within the operational boundary of the TLMP trial. Access to Marshalls Creek for cultural fishing

will be defined in consultation with the Tweed Aboriginal Cultural Fishing Steering Committee (TCFSC) and consent sought, if required, during the trial period.

An approval for the taking of fish given under Section 37(1)(d) of the FM Act, and a consent granted under Part 2 of the MEM Regulation is a defence to a prosecution for an offence against the FM Act, MEM 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 TLMP trial area to provide continued access to Aboriginal persons not covered by the TLMP. If a person is covered by the TLMP, the amount of fish that person can take will be determined under the TLMP, and other aspects of the ACFIA will be included in the TLMP arrangements.

3.3 Native Title

LMP arrangements made under the FM Act and MEM Act are not intended to affect the operation of the *Native Title Act 1993* 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 *Native Title Act 1993 (Cth)* or in any other respect (Section 287 of the FM Act).

There are currently no registered Native Title Claimant Applications or Determination Areas for the land and waters subject to the TLMP, but there may be individuals who are native title holders who may exercise or enjoy native title rights and interests in the TLMP 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 TLMP will be given under the future acts provisions of the *Native Title Act 1993*.

3.4 Geographical extent of the Tweed Cultural Fishing Local Management Plan

The areas subject to the TLMP 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 TLMP are of cultural significance and will remain unnamed or their connection not elaborated on due to the associated cultural sensitivities.

The operational boundary for the TLMP lies within the Tweed and Brunswick River catchments involving two main rivers, the Tweed, which flows south-east through a coastal floodplain to Tweed Heads, and small sections of the Brunswick, which flows through coastal waterways at Brunswick Heads to the sea. Many smaller creeks, tributaries, and coastal lagoons form part of the catchment before reaching the coast (Figure 1).

Cape Byron Marine Park & Cook Island Aquatic Reserve

The Marshalls Creek SZ and HPZ of the Cape Byron Marine Park and Cook Island Aquatic Reserve lie within the operational boundaries of the TLMP. Whilst provisions under the TLMP do not currently allow for fishing access to these areas, the engaged community have expressed their intention to explore with the relevant authorities and stakeholders how fishing activity may be supported and integrated into the trial. Relevant consents will be sought if access to these marine protected areas is sought during the trial period.

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 Queensland and New South Wales Border boundary;
- to the southernmost coastal point of the trial area following the northern bank and northern training wall of the Brunswick River.

Applicable waters under the Plan

The TLMP trial area applies to all waters fresh and salt within the Plan's boundaries that contain lakes, rivers and their tributaries, creeks and coastal lagoons (Figure 1).



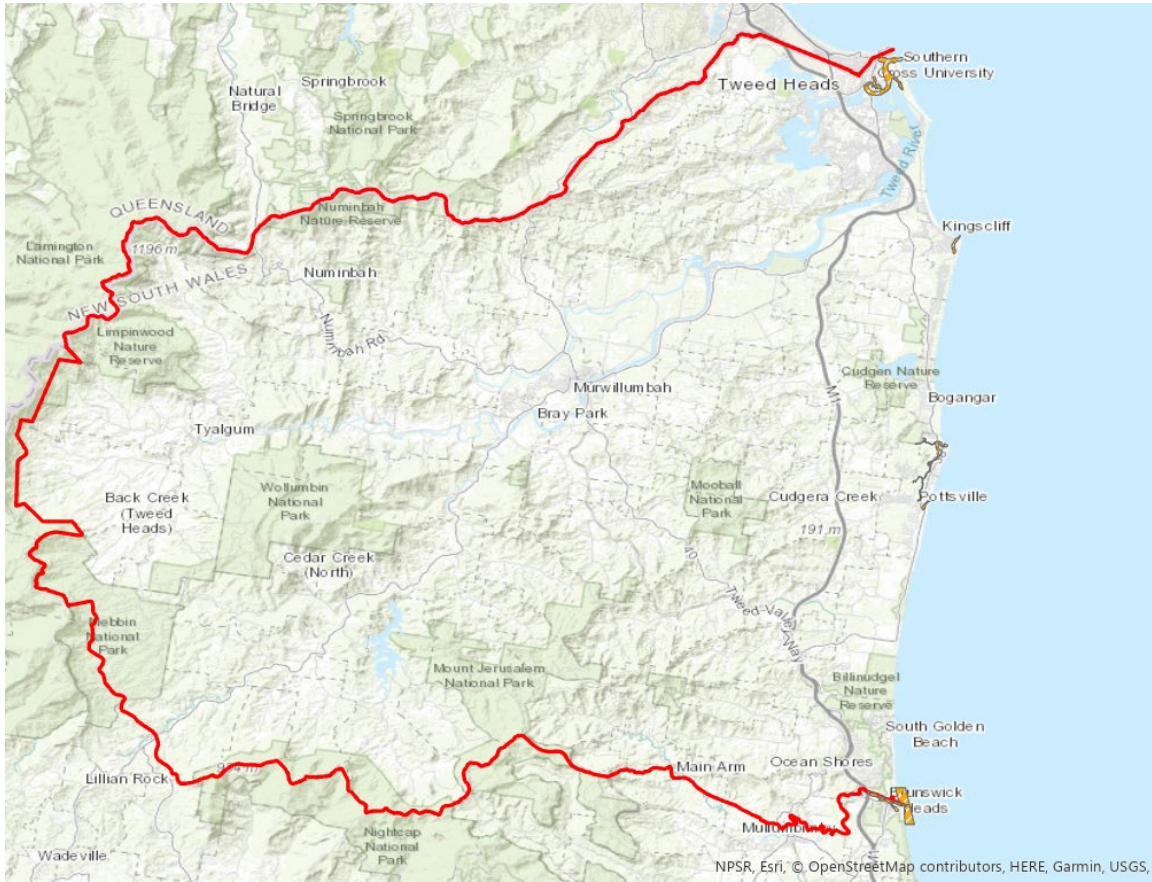


Figure 1. Map of the TLMP trial area

Detailed maps for the trial area are provided in Appendix 2.

3.5 Tweed Local Cultural Fisher

The FM Act defines an *Aboriginal person* to mean a person who:

- 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 (Section 4(1)).

Tweed Local Aboriginal Cultural Fishers (TLCFs) are Aboriginal persons who are:

- a. automatically eligible to be a TLCF or who apply to be an TLCF and are found to be eligible, and
- b. are approved as TLCFs by the DDG DPI Fisheries.

Eligibility to be recognised as a Tweed Local Cultural Fisher

3.5(a) Automatic eligibility

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

Category	Criteria
Local Aboriginal Land Council Membership	The Aboriginal person is a member of the Tweed Byron Local Aboriginal Land Council whose name is on the membership roll of that Aboriginal Land Council and who resides within the trial area.
Child	A person less than 18 years of age who is <ul style="list-style-type: none">• a child of a registered TLCF 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 TLCF,• a child of a registered TLCF 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 TLCF because of parental separation,• a lineal descendant of a TLCF, such as a grandchild, great-grandchild or great-great-grandchild.
Young adult	A person who was automatically eligible to be a TLCF 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 Tweed Aboriginal Cultural Fishing Steering Committee (TCFSC) will:

- notify eligible members of the Tweed Byron Local Aboriginal Land Council that they and their children are automatically eligible to be a TLCF and provide an application form for completion,
- In the application form, seek the consent of each person who is automatically eligible to be a TLCF:
 - to notify the Department that the member and their children are TLCF,
 - for the Department to include their names in a register of TLCF to be used by the TCFCS and the Department,
 - for the Department to use and disclose the information for the purposes associated with the TLMP, for example research and evaluation, and
 - for the Department to provide information to the TCFSC (including personal information and information about the person’s fishing activities) for the purposes of the TLMP self-regulatory system.

The TCFSC will notify the DDG DPI Fisheries of those persons who have automatic eligibility to be an TLCF and who have consented to these details being provided to the Department by returning the application form.



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 TLCF if the person believes they have cultural or community connection to the area. The Aboriginal person may apply for:

- a. permanent eligibility – on-going 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 TCFSC for investigation.

The TCFSC will consider, at a meeting of the TCFSC 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 TLMP area, and
- c. if the person resides outside the boundaries of the HTMP area, the person's cultural or community connection to the area.

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

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

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

The DDG DPI Fisheries may seek additional information from the TCFSC, 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 TLCF

The DDG DPI Fisheries (or other delegate of the Minister administering the FM Act of the power under Section 37(1)(d) and Section 37(3) of the FM Act) will determine the application to be recognised as a TLCF and will advise the applicant of the outcome. If the DDG DPI Fisheries or other delegate refuse an application to be recognised as a TLCF, 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 TLMP, such as being included in a register of TLCF, and for research and evaluation, and
- disclosed to the TSFSC for the purposes of assessing the application and administering the TLMP.



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

Suspending or revoking recognition as a Tweed Local Cultural Fisher

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

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

The TCFSC will:

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

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

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

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



- c. the TCFSC's reasons for their recommendation.

The DDG DPI Fisheries may seek additional information from the TCFSC, 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 TLCF will be revoked and will advise the person of the outcome. If the DDG DPI Fisheries determines that the person's recognition as a TLCF 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.

New community members can make an application to be part of the TLMP however will only be eligible once they have spent a minimum of six months on country to learn and understand the cultural fishing protocols of the area.

Appeals process

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

3.6 TLCF register

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

- officers in the Department who report to the DDG DPI Fisheries, and
- the TCFSC.

The TCFSC may request access to the TLCF register at any time.

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

3.7 Identification

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

- name
- address
- the TLCF number assigned to the TLCF in the TLCF Register

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

- a. their TLCF 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 (eg. 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 TLCF.

3.8 Cultural bag, size 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 TLMP differ from those prescribed in clauses 8 and 9 of the FMG Regulation and to those which apply under the ACFIA.

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

3.8 (a) Size limits

Size limits apply for all fish species as listed in Table 1 (Prohibited size fish (minimum measurements), Table 2 (Prohibited size fish (maximum measurements)) and Clause 7 under Part 2, Division 1 of the FMG Regulation.

3.8 (b) Cultural bag limits

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

3.8 (c) Cultural possession limits

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

Cultural bag and possession limits for the TLMP are specified in TLMP 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, and

- 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 TLCF.

3.8 (d) 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 maybe lawfully be used.

The Section 37 order will permit use of the permitted fishing gear by TLCF in the TLMP but will not give a TLCF 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 TLMP.

Table.2 Permitted fishing gear

Gear	Number permitted (in possession)	Buoy code / Colour
Saltwater Gear		
Line fishing - Rod	6	N/A
Line fishing – Handline	6	N/A
Hand spear / Harpoon	3	N/A
Spear gun	No limit	N/A
Dip or scoop net (prawns)	No limit	N/A
Hand hauled prawn net	1	N/A
Scissors net	1	N/A
Hoop net	6	CFHN/ unique TLCF number
Spanner crab net	2	CFSN/ unique TLCF number
Crab trap	5	CFCT/ unique TLCF number
Lobster trap	2	CFLT/ unique TLCF number
Hand gathering	N/A	N/A
Traditional woven trap	N/A	CFTT/ unique TLCF number

Gear	Number permitted (in possession)	Buoy code / Colour
Stone trap	In locations acknowledged for that purpose in historical cultural context	N/A
Foam bark	Cultural education knowledge transfer not as primary means of fishing	N/A
Beach haul net *	One per coastal region North and South	N/A
Crab wire	2 per person	N/A
Spears	No limit	N/A
Estuary haul and mesh net *	One per coastal region North and South	N/A
Cast net	1 per person	N/A
Freshwater Gear		
Line fishing – Rod	6	N/A
Line fishing – Handline	6	N/A
Hoop net	6	CFHN/unique TLCF number
Trap shrimp	1	CFTS/ unique TLCF number
Hand hauled yabby net	1	N/A

1. Meshing and hauling nets are not permitted to be used in any waters contained within the trial area at any time unless permitted under an appropriate authority.

2. 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.

**The use of hauling or meshing nets under the TLMP will commence at a time that a training program for the use of commercial grade nets has been developed in consultation with the TCFSC and proposed participants in netting activities have participated in the program, specific areas where netting can occur have been identified in consultation with the TCFSC.*

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

It is acknowledged that Pipi and Wobbegong 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 Tweed 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 for the use as bait only and must not be removed from the area.

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

3.8 (f) Pipi gathering

The Tweed 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 TLMP, the harvest of pipi for consumption will be permitted if all conditions as outlined in the Safe and Sustainable project are complied with.

3.8 (g) Fishing closures and other statutory instruments

Several fishing closures exist in the Tweed area. These exist for a variety of reasons, from public health and safety to preserving unique aquatic environments. Fishing closures or activities limited under the FM Act or MEM Act*, which apply in the TLMP trial area will continue to apply, unless specifically stated in the Section 37 order or a MEM Act permit issued for the TLMP or the fishing closure.

Under the TLMP a TLCF is not authorised, to harm any species of fish in a habitat protection zone of the Cape Byron Marine Park, that is identified as a protected species of fish for the purposes of that park. The fish that can be taken in a habitat protection zone are listed at <https://legislation.nsw.gov.au/view/html/inforce/current/sl-1999-0102#pt.5-div.11-inc-oc.2> and in Table 3.

Table 3. Fish that may be taken in habitat protection zones

Common name	Class/Family	Species
Finfish	Class Osteichthyes	All species (except any specified in Schedule 4 to the <i>Fisheries Management Act 1994</i>)
Lobster, crayfish	Family Palinuridae	All species (except any specified in Schedule 4 to the <i>Fisheries Management Act 1994</i>)
Prawns	Family Penaeidae	All species (except any specified in Schedule 4 to the <i>Fisheries Management Act 1994</i>)
Squid	Family Sepiidae	All species (except any specified in Schedule 4 to the <i>Fisheries Management Act 1994</i>)



Common name	Class/Family	Species
Pipis	Family Donacidae	All species (except any specified in Schedule 4 to the <u><i>Fisheries Management Act 1994</i></u>)
Rock and beach worms	Family Onuphidae	All species (except any specified in Schedule 4 to the <u><i>Fisheries Management Act 1994</i></u>)
Marine yabbies (nippers)	Family Callinassidae	<i>Callinassa</i> spp.
Mud crabs	Family Grapsidae	<i>Scylla serrata</i>
Blue swimmer crabs	Family Portunidae	<i>Portunus pelagicus</i>
Rock crabs	Family Grapsidae	All species
Spanner crabs	Family Raninidae	<i>Ranina ranina</i>
Oysters	Family Ostreidae	<i>Saccostrea</i> spp. and <i>Crassostrea</i> spp.
Turban shell (<i>Googoombull</i>)	Family Turbinadae	<i>Turbo</i> spp.
Abalone	Family Haliotidae	<i>Haliotis rubra</i>
Periwinkles	Family Trochidae	<i>Austrocochlea</i> spp.
Finfish	Class Osteichthyes	All species (except any specified in Schedule 4 to the <u><i>Fisheries Management Act 1994</i></u>)

3.8 (h) Other permitted actions

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

The TLMP is not intended to restrict the Minister's, Secretary's or Governor's powers under the FM Act or MEM Act and regulations made under those Acts. The TLMP does not impose on the Minister, Secretary or Governor the requirement to consult with the TCFSC or any TLCF when making a statutory instrument under the FM Act or MEM 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 and other aquatic 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 4 defines key cultural events and their associated activities recognised within the TLMP. Where the Community or a TLCF requires access or wishes to use methods that are beyond what the TLMP or ACFIA provide (for events such as for a large cultural gathering or ceremonies), the TCFSC or an individual TLCF must apply for a permit under Section 37 of the FM Act and the MEM Act (if the area is within the Cape Byron Marine Park).

Table 4. 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 TLMP	Whenever appropriate
Pipi**	Hand gathering/ Community education	Whenever appropriate
Prawning	Netting as per methods permitted under the TLMP	Summer
Oyster	Hand gathering	October to April

* As per conditions outlined in section 3.8(d) Permitted gear

** Gathering of pipi is to be conducted in accordance with 3.8 (f) Pipi gathering

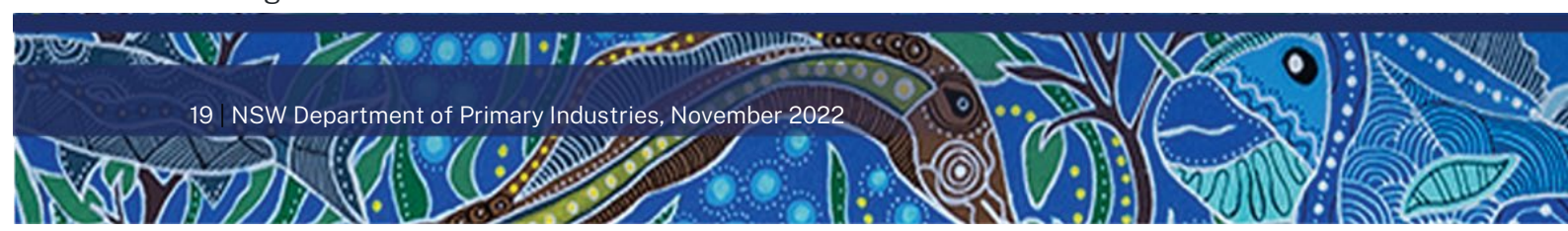
***Appendix 3:** details community aspirations which are not currently a formal part of the TLMP. The engaged Tweed Aboriginal community recognise these aspirations and the associated activities need to be defined. The TCFSC will gather information on community aspirations and will consider particular activities in consultation with the Department. Where viable, these activities can be added to the TLMP and formalised by amending the Section 37 order for the TLMP and permit or authority issued under the MEM Act. Where the community wishes to exercise aspirations not included in the TLMP, application for a permit can be made by the TCFSC or an individual TLCF under Section 37 of the FM Act and the MEM Act (if within the Cape Byron Marine Park).*

3.10 Term of plan

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

3.11 Review

Evaluation of the whole pilot LMP project, which includes the TLMP, will inform decisions about how Aboriginal cultural fishing in NSW is managed in the future, including the operation of Section 21AA of the 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 TLMP during, and at completion of, the pilot program. Participating communities will be verbally briefed on progress through:

- Community events
- the TCFSC
- Key service providers.

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

3.11 (a) Purpose

A key focus of the trials will be the effectiveness of the LMPs in managing the fisheries resource. Importantly, evaluation will also look at other benefits which result for Aboriginal communities from sharing knowledge about cultural fishing, which is very important 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 in determining the effectiveness of the LMP.

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 TLMP.

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 8**) 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 14** 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 Tweed Cultural Fishing Steering Committee

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

The TCFSC will be made up of nine Aboriginal community members from all areas of the LMP trial area (north, south and west), (each with a deputy). A formal position on the steering committee exists for a Tweed cultural fisher who lives and fishes on Minjungbal country but does not reside in NSW in recognition of cultural fishers who still fish the area and live on traditional country.

Membership of the TCFSC will be determined:

- **for the first TCFSC** – by vote of the members of the Tweed Shire Council Aboriginal Advisory Committee.
- **for subsequent TCFSCs or to replace members of the TCFSC** – by vote of all TLCFs.

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

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

TCFSC Secretariat

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

4.2 Self-regulation principles

The purpose of the TLMP 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.

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

4.2 (a) The Department will communicate with the TCFSC

- the Department, through the TCFSC Secretariat, will give the TCFSC information about activities by TLCFs, and persons who claim to be TLCFs, within the TLMP area which may be an offence under the FM Act or MEM Act.

- the Department, through the TCFSC Secretariat, will notify the TCFSC when a TLCF has allegedly committed an offence under the FM Act for which the Section 37 order supporting the TLMP does not provide a defence or an offence under the MEM Act.

4.2 (b) Roles of TCFSC and DPI Fisheries

The Department and TCFSC will develop a matrix which classifies the seriousness of offending by TLCFs 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 or MEM Act permit underpinning the TLMP
- whether the TLCF holds a commercial fishing licence under the FM Act
- whether the TLCF has sold fish taken under the TLMP.
 - a. the TCFSC Secretariat will convene quarterly meetings between the DPI Fisheries and TCFSC to discuss any matters that DPI Fisheries has brought to the attention of the TCFSC under paragraph 4.2(a). The TCFSC Secretariat will convene additional meetings, if requested by a majority of TCFSC members.
 - b. the Department and TCFSC will discuss:
 - how each alleged offence by a TLCF should be classified using the matrix
 - the action which may be taken by the TCFSC and the Department in relation to the alleged offending, including:
 - i. the Department refraining from acting for an agreed period to allow the TCFSC to discuss the alleged offending with the TLCF and to put in place measures to prevent offending in the future
 - ii. DPI Fisheries Officer giving a warning or official caution
 - iii. DPI Fisheries Officer issuing a penalty notice
 - iv. the Department bringing proceedings to enforce the FM Act or the MEM Act.
 - c. the TCFSC 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 TLCF. The TCFSC may identify matters that it considers require deviation from the range of enforcement actions for the type of offending.
 - d. the Department will consider any discussions between the TCFSC and the Department and recommendations made by the TCFSC, but the decision as to the classification of the offence and the enforcement action which will be taken will be made by a DPI Fisheries Officer.

* NSW Police are authorised officers under the FM Act and MEM Act. The TLMP does not constrain NSW Police from commencing proceedings under these Acts.

** Any person can bring proceedings in the Land and Environment Court for an order to remedy or restrain a breach of the FM Act or the MEM Act.

4.2 (c) Role of DPI Fisheries (Compliance)

The Department has responsibility for administering fisheries laws governing the fisheries resources of the State and management rules governing marine park management and use in NSW marine parks, exercised through the Fisheries Compliance



Unit (FCU). The FCU will play a key role during the trial through operational interaction with TLCF and regular communications with the TCFSC.

4.3 Catch monitoring and reporting

The TLMP 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 TLMP 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 Cultural Fishing Pilot Monitoring Project (CFPMP)
- biannual community surveys.

The proposed CFPMP 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 TLMP 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 DPI Fisheries and the DPE-EHG. DPI Fisheries is responsible for all species of fish, marine vegetation and marine protected areas. 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 DPE-EHG. Marine protected areas include the NSW mainland marine park network of which the Cape Byron Marine Park is part and Aquatic Reserves such as the Cook Island Aquatic Reserve. The responsibility for threatened species and their management is shared between DPI Fisheries and DPE-EHG.

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 TLMP.

However, Aboriginal cultural fishing carried out under the TLMP 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 Section 37 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 TLMP 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, the MEM 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 TLMP will not have a significant impact on matters of national environmental significance or other EPBC matters and there is no need to refer the TLMP to the Department of Climate Change, Energy, the Environment and Water (Commonwealth).

5. Communications and engagement

Ongoing extension will play a crucial role for developing support and adoption of the management structure developed under the TLMP. Engagement between TLCFs and the broader Tweed 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 TLMP.

5.1 Key communication and engagement protocols

Only Tweed traditional custodians can:

- a. talk on matters related to country associated with the TLMP. 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 TLMP
 - c. endorse how the TLMP content is made available to the broader stakeholder base for both extension and education purposes.
-

5.2 Tweed 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 TCFSC and DPI Fisheries staff the opportunity to engage directly with community.

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

- Tweed Aboriginal Advisory Committee
 - Local Aboriginal Land Councils (Tweed Byron LALC)
 - Tweed Wollumbin Aboriginal Education Consultative Group
 - Tweed Aboriginal Corporation for Sport
 - Tweed Aboriginal Co-op
 - Canowindra – Cedric House
 - Bugalwena Aboriginal Health Services
- Tweed Aboriginal Men’s Group
- Women’s Group
- Elders’ Group
- other local Aboriginal service providers (endorsed by the TCFSC).

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

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 TCFSC reports. Where an invitation is extended to attend a meeting of a Ministerial Council the TCFSC 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 TCFSC 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 TCFSC members, at a meeting of the TCFSC, at which a Tweed Byron traditional custodian is present (to be regarded as a recommendation of the TCFSC).

Appendix

Appendix 1. Bag limits for taking and possessing fish

Tweed Cultural Fishing Local Management Plan

Table 5. Fish— Marine or estuarine

Common name	TLMP bag limit	TLMP possession limit
Australian Anchovy	350	350
Banded Rockcod	10	15
Bass Groper, Bass Grouper, Gemfish	(combined)	(combined)
Hapuku, Hapuka	No more than 4 Gemfish	No more than 4 Gemfish
Blue-eye Trevalla, Trevalla		
Billfish Families <i>Xiphiidae</i> and <i>Istiophoridae</i>	2 of each species	2 of each species
Rock Blackfish	30	40
Cobia	10	20
Australian Bonito	20	40
Tarwhine	40	80
Yellowfin Bream	40	65
Black Bream, Southern Bream	15	40
Dusky Flathead, Common Flathead	20	40
Bluespotted Flathead, Sand Flathead Tiger Flathead Flathead	60	80
Flounder Sole	60	80
Eels Southern Shortfin Longfin	40	40
Eastern Sea Garfish	60	80
Garfish (except Eastern Sea Garfish)	150	150
Eastern Blue Groper, Blue Groper, Brown Groper, Red Groper	4	8
	* 1 fish permitted to be taken by spear	

Common name	TLMP bag limit	TLMP possession limit
Largehead Hairtail, Hairtail	4	8
Hardyhead, Silverfish	30	30
Southern Herring	150	150
Yellowtail Kingfish	15	20
Leatherjacket	40	80
Luderick, Blackfish	60	80
Blue Mackerel, Slimy Mackerel	150	200
Spotted Mackerel Spanish Mackerel	15 (combined)	15 (combined)
Mahi Mahi, Dolphinfish	30	40
Mangrove Jack	10	15
Maray, Round Herring	200	200
Banded Morwong	30	40
Jackass Morwong	30	40
Red Morwong, Sea Carp	15	20
Grey Morwong, Rubberlip Morwong	30	40
Mullet	60	90
Mulloway, Jewfish	10	20
Moses Snapper, Moses Perch	15	15
Pearl Perch	15	20
Australian Sardine, Pilchard	350	350
Eastern Australian Salmon, Australian Salmon	15	20
Samsonfish, Amberjack	15	20
Eastern Red Scorpionfish, Eastern Red Rockcod	15	20
Sharks and Rays (other than Wobbegongs)	15	20
Snapper	30	50
Blue Sprat, Bluebait	200	200
Sandy Sprat, Whitebait	300	300
Australian Sawtail, Sawtail Surgeon	10	20



Common name	TLMP bag limit	TLMP possession limit
Tailor	50	80
Teraglin	10	20
Trevallys	40	80
Albacore, Albacore Tuna Bigeye Tuna Longtail Tuna Yellowfin Tuna	15 (combined)	30 (combined)
Wahoo	10	20
Wobbegong	1	1
Whiting	50	100
Yellowtail, Jack Mackerel	100	100

Table 6. Invertebrates – saltwater

Common name	TLMP bag limit	TLMP possession limit
Blacklip Abalone, Abalone	15	30
Balmain Bug	40	40
Beachworm	50	90
Cockle Blue Mussel, Mussel	150 (combined)	300 (combined)
Pipi* (Bait only can be removed from beach)	150	250
Blue Swimmer Crab, Sand Crab	40	65
Mud Crab, Black Crab, Mangrove Crab	15	30
Spanner Crab	20	45
Soldier Crab	100	200
Crab (except for Blue Swimmer Crab, Sand Crab, Mud Crab, Spanner Crab and Soldier Crab)	20 (combined)	40 (combined)
Cunjevoi	40	40
Eastern Rocklobster Southern Rocklobster	6 (combined)	10 (combined)

Common name	TLMP bag limit	TLMP possession limit
Tropical Rocklobster, Painted Rocklobster, Ornate Rocklobster	6 (combined)	12 (combined)
Slipper Lobster, Flat Lobster	5	10
Octopus	30	60
Sydney Rock Oyster	150 or 20 litres	300 or 40 litres (combined)
Pacific Oyster	(Combined 150 individual oysters or up to 20 Litres)	(Combined 300 individual oysters or up to 40 Litres)
Native Oyster, Flat Oyster, Drift Oyster		
Molluscs (except squid, octopus and cuttlefish (class <i>Cephalopoda</i>) and any other mollusc referred to in this Table)	60	85
Prawns	30 litres	60 litres
Saltwater nippers	100	100
Scallops	150	300
Sea Urchin	20	40
Squid	60	85
Cuttlefish	60	85
Worms (except beachworms)	200	200
Sydney Turban Snail	40	80
Military Turban Snail	15	35

* Note unless undertaken in line with conditions as outlined in Section 3.8(f) of the TLMP or authorised under Section 37 of FM Act, 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 7. Freshwater or estuarine

Common name	TLMP bag limit	TLMP possession limit
Golden Perch, Yellow Belly Perch	7	15
Murray Cod	10	25
Freshwater Catfish, Eel-tailed Catfish Listed dams and eastern dams	10	36
Freshwater Catfish, Eel-tailed Catfish Eastern Rivers	8	20

Australian Bass	8 (combined)	15 (combined)
Estuary Perch		
Atlantic Salmon	20 (combined)	20 (combined)
Brook Trout		
Brown Trout		
Rainbow Trout		

Table 8. Invertebrates - freshwater

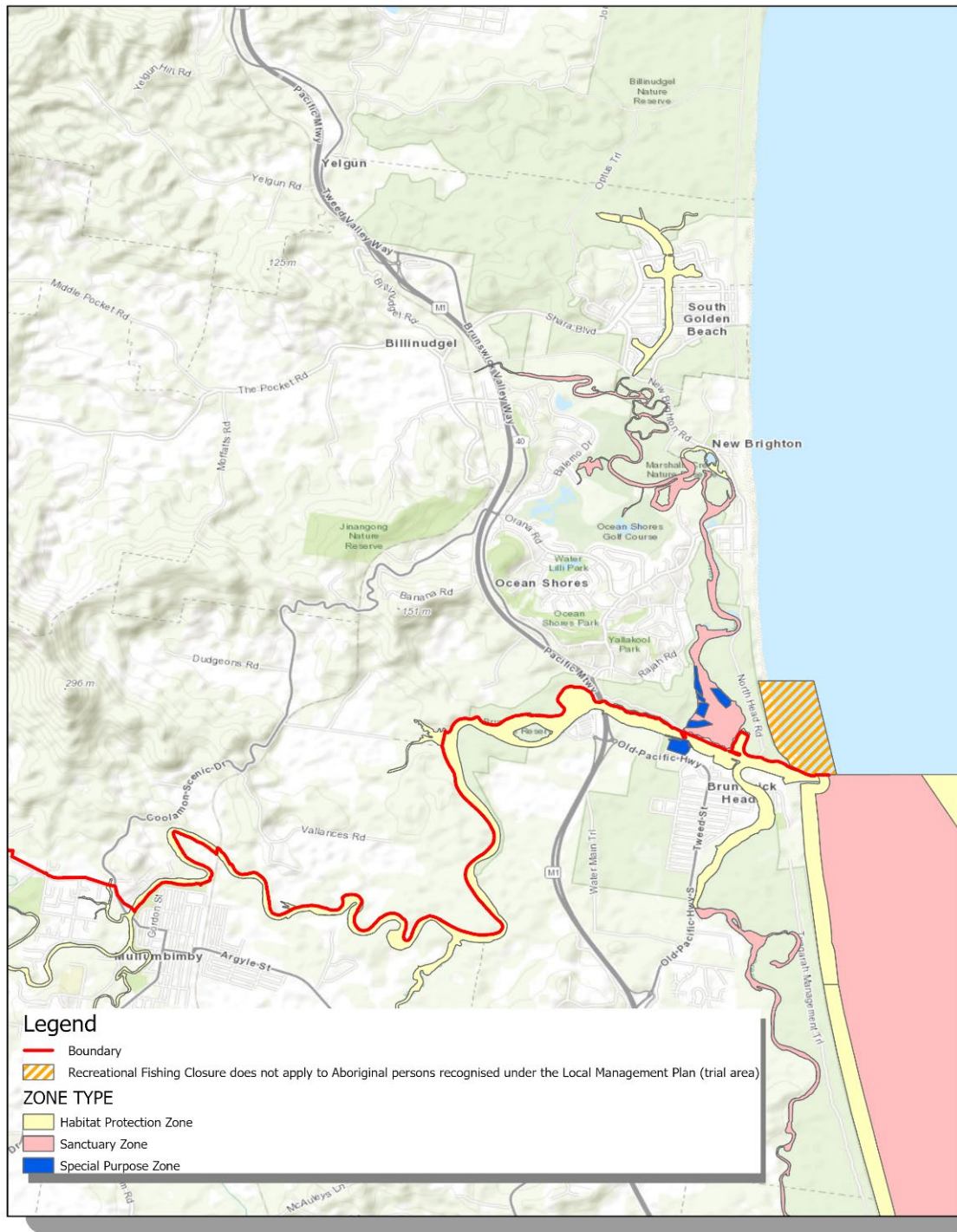
Common name	TLMP bag limit	TLMP possession limit
Spiny Crayfish (other than Murray Crayfish)	25 (combined)	40 (combined)
Yabby	400	1000



Appendix 2. Maps



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



Produced by DPI Fisheries: Recreational and Aboriginal Fisheries
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Base data provided by: ESRI/DFS/SS/heatmap/Spot Imagery
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 Contact: or.gudes@dpi.nsw.gov.au

Tweed Local Area

NSW GOVERNMENT | Department of Primary Industries

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

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Figure 3. Southern Boundary (Brunswick River & Marshalls Creek)

Appendix 3. Community identified cultural fishing aspirations

Table 9. Community events

Event	Activity	Season/frequency
Mullet run	Hand spear/Trap/Community education/Netting/Hauling/Jagging	During the run
NAIDOC	Community gathering fishing event + Pre event fishing all types	July
Community events/Gatherings	All types of fishing	4 times annually
Youth events	All types of fishing	Whenever appropriate
Men's and Women's Camps/Group meetings	All types of fishing	Whenever appropriate
Community education events	All types of fishing and traditional gear making and gear mending	Whenever appropriate
Reconciliation	Commercial Netting	All year
Cultural seasonal harvest for Whiting/Tailor and Blue Swimmers	All types of fishing including commercial netting	Seasonal
Cultural trade (non-commercial)	All types of fishing	Whenever appropriate
Educational groups	All types of fishing	Whenever appropriate

Table 10. Family events

Event	Activity	Season/frequency
Christmas	All types of fishing	December/January
Easter	All types of fishing	April
Sorry Business	All types of fishing	Whenever appropriate
Family Reunions	All types of fishing	Whenever appropriate
Weddings/Anniversaries	All types of fishing	Whenever appropriate
Pipi	Gathering	Year round
Funerals	Community/Family Gathering	Whenever appropriate
Birthdays	All types of fishing	Whenever appropriate
Sunday Lunch	All types of fishing	Whenever appropriate
Visitors	All types of fishing	Whenever appropriate

Event	Activity	Season/frequency
Family Reunion	All types of fishing	Whenever appropriate

Table 11. Cultural fishing (seasonal harvest)

Event	Activity	Season/frequency
Mullet run	Hand Spear/Trap/Community education/Netting/Hauling/Jagging	During the run
Oyster/Crab season	Gathering/Spear/Hook/Trap	October to April
Pipi	Gathering	Year round
Prawning	Netting	Summer
Cultural seasonal harvest for Whiting/Tailor and Blue Swimmers	All types of fishing including commercial netting	Seasonal
Crabbing	Pot/Hook	In season when fat
Jewfish	Rods	Whenever appropriate
Flathead	Handlines/Rods	Summer
Mussels	Gathering from rocks	Whenever appropriate



Appendix 4. Traditional fishing gear definitions

Table 12. 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 Tweed 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. Tweed 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 DPI Fisheries
- Suggesting strategic decisions to maintain project viability
- Reviewing, suggesting and advising on solutions for any issues critical to completing the trial
- Endorsing communication and engagement activity
- Conflict resolution where project objectives may be compromised.

Membership

The membership of the Steering Committee is to include:

- Up to 9 members in total with each having a nominated proxy
- Gender balanced representation
- Elder representation
- Youth representation (min 16 years)
- A formal proxy position is held open for a person between the ages of 16 and 20
- Traditional Custodians representation
- Tweed cultural fisher that does not reside in NSW
- Representation from all areas of the LMP trial area (north, south and west)
- DPI Fisheries management and compliance operations.

Secretariat

The Secretariat support for the Steering Committee will be provided by DPI Fisheries 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, papers are to be distributed 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.
- Meetings may take place by attendance or by video link/telephone, at the discretion of the Chair.
- At least 5 business days' notice will be given where possible before any extraordinary meeting is called.
- A minimum of 5 voting members must be present (majority) to achieve a quorum for voting purposes.



Appendix 6. Appeals process

Tweed 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 Tweed Local Cultural Fisher, or
 - revocation of recognition as a Tweed Local Cultural Fisher.
1. an appeal request must be made in writing to the Secretariat of the TCFSC:
TCFSC 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 TLCF 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 TLCF
 - comment on how the appellant meets the eligibility criteria that DPI Fisheries 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 TLCF 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 TLCF, 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 TCFSC Secretariat located in V17/4759#6 where detail is to be recorded in full.
 5. within 2 business days of receipt, TCFSC Secretariat will bring the request to the attention of the TCFSC.
 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 TCFSC which lead to the original recommendation to the DDG DPI Fisheries, as recorded in the official minutes of a meeting
 - the original decision Brief of the DDG DPI Fisheries
 - the information set out in the appeal request
 - any information provided by the TCFSC on the information in the appeal request
 - in the case of the revocation of recognition, any information provided by DPI Fisheries Compliance, and

- any information provided by the appellant in response to the information provided by the TCFSC and DPI Fisheries Compliance.
7. the Allocated Officer may contact the appellant or the TCFSC 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 TCFSC.



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 FM 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 DPI Fisheries. 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 FM 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 FM Act, LMP arrangements made under the FM 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 DPI Fisheries staff will also be available for interested community members to discuss points of view at any stage of the process.

Timeframes

LMPs in pilot locations are intended to be developed in 2022, if 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

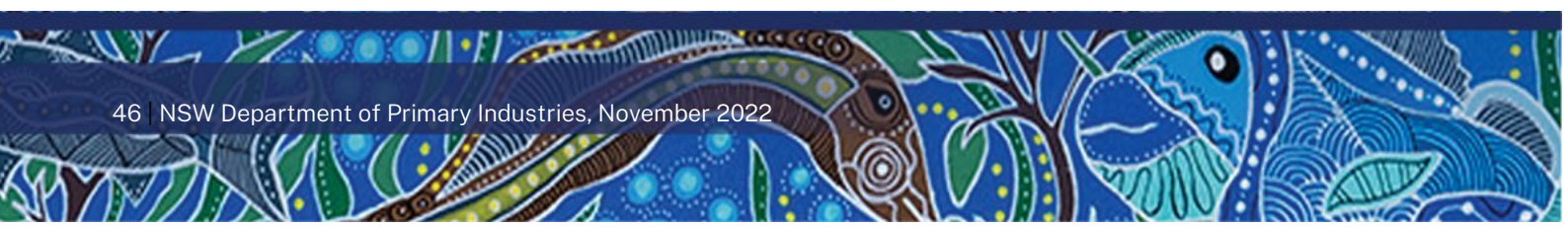
Direct engagement and input into the LMP pilot trials will be through Aboriginal community workshops (using an independent facilitator where possible). LMP community negotiation teams (if implemented) will provide feedback which will be collated for consideration. Aboriginal people the plan relates to 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 FM Act), along with protection and promotion of Aboriginal cultural fishing. The FM 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.

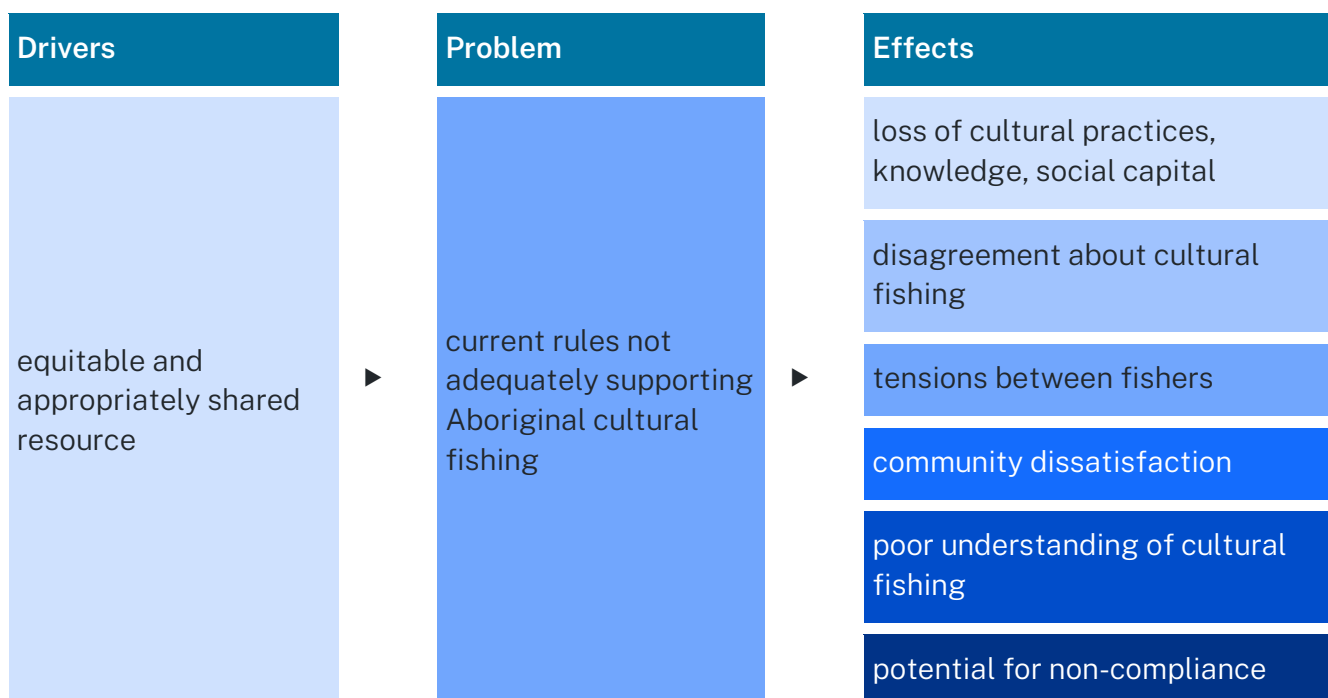


Figure 3. Task definition

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 informing the operation of Section 21AA of the FM 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 14 summarises the key evaluation questions, indicators, timing and method of data collection following on from the project logic framework.

Table 13. 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)	Michael Lowry

Title	Function	Who?
	Assist in interpretation of data	
Facilitator	Contribute to evaluation framework and survey design	Hayley Egan HCFSC
	Assist in survey distribution and collection of surveys	
	Contribute to the preparation of the report	
LMP convenors	Contribute to evaluation framework and survey design	Carl Bevilacqua Laura McNamara
	Assist in survey distribution and collection of surveys	Sarah Fairfull
	Contribute to the preparation of the report	
Reference group	Contribute to the final evaluation framework	NSWALC and NTS Corp, TCFSC
	Review final report	
Participants	Contribute to the evaluation framework	Aboriginal Community
	Complete surveys as requested	





Figure 4. 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 Tweed 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 14. Evaluation approach

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

	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)
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)

References

NSW Fisheries (2003) Fishery Management Strategy for the Ocean Hauling Fishery

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