

# Draft Aboriginal Fishing Regulation

## FACTSHEET

The Department of Primary Industries and Regional Development (DPIRD) has commenced public consultation on a draft Aboriginal Fishing Regulation.

### Purpose of the draft Aboriginal Fishing Regulation

The purpose of the draft regulation is to support the commencement of section 21AA (a special provision for Aboriginal cultural fishing) and provide daily take and possession limits for fish and invertebrates that recognise the spiritual, social and customary significance of fisheries resources to Aboriginal people that can be applied across NSW within a sustainable natural resource management framework.

### About the draft Aboriginal Fishing Regulation

The draft regulation complements the broad suite of existing mechanisms that support fishing by Aboriginal peoples for cultural purposes, by amending the Fisheries Management (General) Regulation 2019 to:

- prescribe daily take and possession limits for fish and invertebrates to support Aboriginal people fishing for cultural purposes, informed by the current limits in the Aboriginal Cultural Fishing Interim Access Arrangement (ACFIAA) that have been in place since 2010.
- apply a general combined daily take and possession limit of 20 native freshwater finfish and 40 marine or estuarine fish, shellfish, worms, cunjevoi or any species not listed in the regulation.
- include a special provision to recognise and permit the cultural practice of shucking and consuming invertebrates close to shore, as consistent with the current ACFIAA. This allows Aboriginal people to continue to consume these species in situ, a cultural practice that has occurred over many thousands of years, as evidenced by shell middens along the NSW coast.

The draft regulation is intended to apply to Aboriginal peoples fishing for cultural purposes statewide.

The take and possession limits in the draft regulation do not affect the operation of Aboriginal Cultural Fishing Local Management Plans, current permit/orders issued for Aboriginal cultural fishing under the *Fisheries Management Act 1994* or permits issued for traditional use in marine parks and aquatic reserves under the *Marine Estate Management Act 2014*.

The proposed daily take and possession limits are considered to provide an appropriate balance between meeting Aboriginal cultural fishing needs and ensuring the sustainable sharing and management of fisheries resources.

All other fishing rules (e.g. size limits; gear restrictions; fishing closures/orders; marine park and aquatic reserve zones, prohibited activities and other rules; fish and waters protected from fishing) will continue to apply to Aboriginal cultural fishing.



## Native Title

The draft regulation will not change what native title holders can currently take.

Section 211 of the *Native Title Act 1993* (Cth) provides native title holders with – in substance – an immunity from the limits in the Draft Regulation, where they are fishing in the exercise or enjoyment of their native title rights for the purpose of satisfying their personal, domestic or non-commercial communal needs.

The draft regulation does not authorise an Aboriginal person to do anything that is inconsistent with native title rights and interests under an approved determination of native title or with the terms of an indigenous land use agreement, within the meaning of the *Native Title Act 1993* (Cth).

## Consultation

The draft regulation has been under development since early 2023, informed by advice from the Aboriginal Fishing Advisory Council, other fisheries and marine estate advisory bodies and relevant state government agencies.

In October 2024, DPIRD undertook targeted stakeholder consultation with key Aboriginal and fisheries and marine estate advisory bodies on the draft regulation and proposed approach to Aboriginal community and broader public engagement.

DPIRD is now undertaking public consultation on the draft regulation and is seeking feedback via the online submission form available at [www.dpi.nsw.gov.au/fishing/aboriginal-fishing/proposed-aboriginal-fishing-regulation](http://www.dpi.nsw.gov.au/fishing/aboriginal-fishing/proposed-aboriginal-fishing-regulation).

The public consultation online submission form contains the following questions to support discussions and to gather feedback:

1. Do you have any general comments on the draft regulation?
2. Do you suggest any changes to the daily take and possession limits proposed in the draft regulation?
3. If you identify as an Aboriginal person, are the limits proposed in the draft regulation appropriate to meet your cultural fishing needs?
4. Is your present cultural catch satisfying your educational, ceremonial and traditional lores and customs?
5. How could the regulation support your Aboriginal cultural fishing practices?
6. Are you interested in developing a place-based Aboriginal Cultural Fishing Local Management Plan that would support your community's cultural fishing needs?
7. The Discussion Paper outlines several programs that support Aboriginal fishing in NSW, would you like to find out more about these?

The views of Aboriginal people and the broader community will be carefully considered during this public consultation phase to ensure the delivery of an enduring regulation that considers the diverse needs and aspirations of Aboriginal communities across NSW, both on the coast and inland, within a sustainable fisheries management framework.

## More information

You can view the draft regulation, supporting discussion paper, register for information sessions and provide feedback via the online submission form using the QR code or at [www.dpi.nsw.gov.au/fishing/aboriginal-fishing/proposed-aboriginal-fishing-regulation](http://www.dpi.nsw.gov.au/fishing/aboriginal-fishing/proposed-aboriginal-fishing-regulation)



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