

# The Coolangatta Workshop Communiqué

## The Principles and Strategies to underpin the development of Recreational Fishing Rights and Resource Allocation in Commonwealth-managed fisheries

Prepared by the Workshop participants as recommendations to Commonwealth, State and Northern Territory governments through the Natural Resource Management Ministerial Council arrangements

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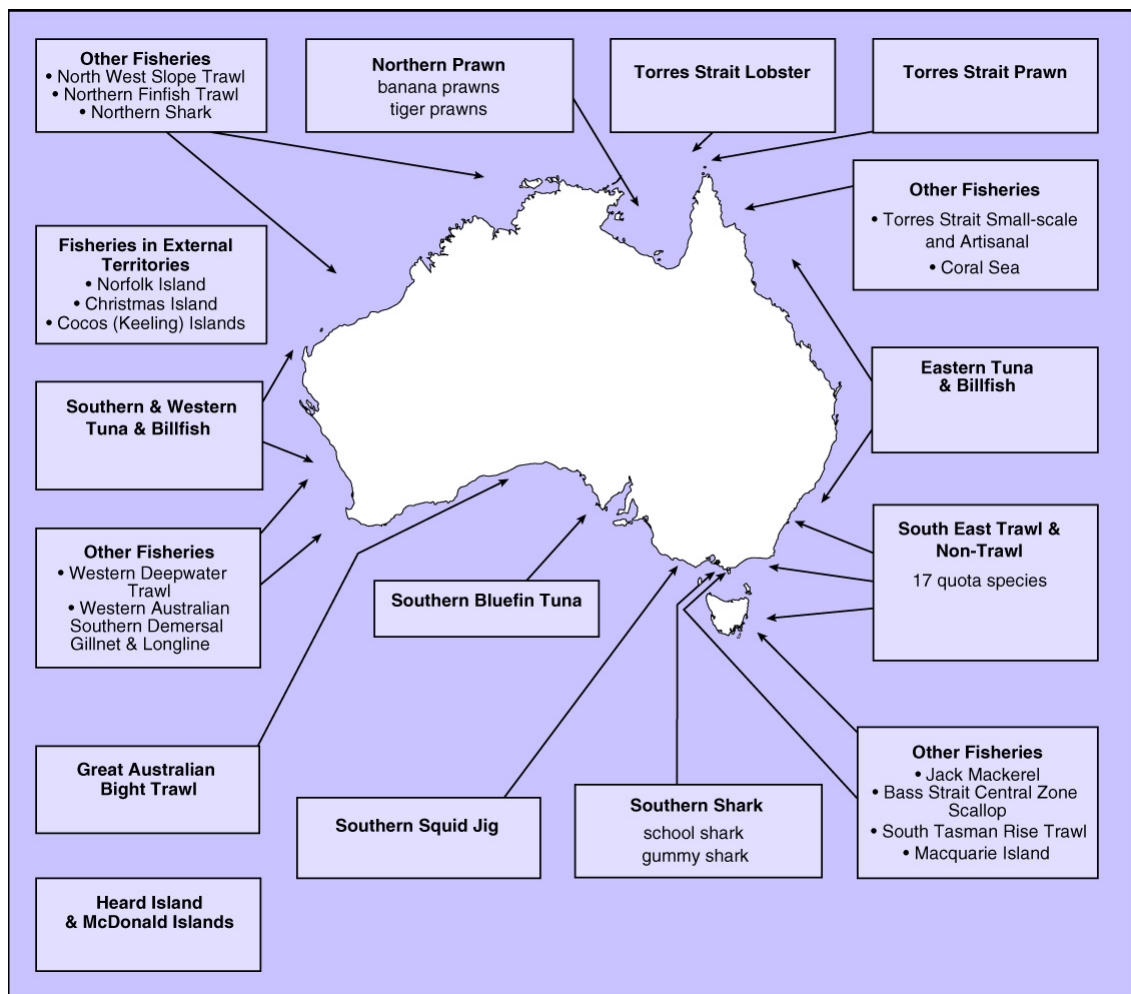
# Introduction

Australia's present arrangements for Commonwealth fisheries were established in 1992 and are implemented through the *Fisheries Management Act 1991* and the *Fisheries Administration Act 1991* and administered by the Australian Fisheries Management Authority (AFMA) and the Department of Agriculture, Fisheries and Forestry - Australia (AFFA).

A series of Offshore Constitutional Settlement (OCS) arrangements allow for predominantly coastal resources to come under the jurisdiction of the relevant State or Territory with predominantly offshore, straddling and highly migratory resources to come under the jurisdiction of the Commonwealth.

Figure 1 illustrates the range of Commonwealth-managed fisheries presently managed by AFMA.

**Figure 1: Commonwealth-managed fisheries**



To date, these Commonwealth fisheries resources have been allocated as a right to and managed for the commercial fishing sector.

A debate has now emerged within Australia on the broader issues of rights of access to these fish stocks by other Australians, based on a legal understanding of their right of access to shared resources.

During 2001, the Federal Government provided the following statement in relation to recreational fishing in Commonwealth waters:

*"That recreational fishing must be an integral part of Commonwealth fisheries management and must be provided with rights and responsibilities".*

The Government further recommended that a workshop be held to

*"Identify how best to provide appropriate management rights to the recreational sector as they apply to Commonwealth managed fisheries and how these rights are to be allocated."*

To address the issue of formalising rights to the recreational and charter sectors, a national workshop on Recreational Fishing Rights and Resource Allocation in Commonwealth-managed fisheries was held in Coolangatta, Queensland, in October 2002 (the Workshop).

Participants from all Australian States and Territories and from overseas, representing the interests of the recreational, commercial, traditional, gamefishing and charter fishing sectors, aquaculture, aquatic tourism and other stakeholder interest groups, attended the Workshop. A list of the participants is attached.

Participants discussed strategies for the development of resource sharing in Commonwealth-managed fisheries in light of the environmental, economic and social aspects of these resources and advances in public policy settings.

## Workshop Objectives

The objectives of the Workshop were to:

1. Involve the recreational, commercial and traditional fishing sectors and other key stakeholders in:
  - a) identifying and developing principles of recreational fishing rights and responsibilities;
  - b) developing frameworks for resource sharing for the recreational fishing sector consistent with the principles applying to other sectors and ecologically sustainable development; and
  - c) developing possible mechanisms/arrangements for rights-based management for the recreational fishing sector compatible with the frameworks applying to other sectors.
2. Develop and agree on a declaration/strategy and action agenda to be used to facilitate the implementation of recreational fishing rights and resource sharing mechanisms/arrangements in Commonwealth-managed fisheries and which may also be applied in other jurisdictions.

## **Key Issues**

The issues the participants of the Workshop were asked to address were:

- A. Identify and develop principles of recreational fishing rights and responsibilities.**
- B. Develop frameworks for resource sharing for the recreational fishing sector, consistent with the principles applying to other sectors and ecologically sustainable development.**
- C. Develop possible mechanisms/arrangements for rights-based management for the recreational fishing sector that is compatible with the frameworks applying to other sectors.**

The Workshop prepared and agreed the following report of principles and strategy for fisheries resource sharing.

## **Communiqué**

This Communiqué has been prepared and agreed unanimously by the participants at the national workshop on Recreational Fishing Rights and Resource Allocation in Commonwealth-managed fisheries - Coolangatta, Queensland, in October 2002 (the Workshop).

The Communiqué includes the principles that should support resource sharing between fishing sectors and addresses the three questions asked of participants.

The Communiqué will be forwarded to the Commonwealth Minister with responsibility for fisheries and aquaculture.

## Consideration of Key Issues

The Workshop addressed the following key issues on Recreational Fishing Rights and Resource Allocation in Commonwealth-managed fisheries.

### **A Identify and develop principles of recreational fishing rights and responsibilities**

To achieve this outcome, the Workshop addressed the question of:

*“What are the fishing rights and the responsibilities that go with these rights.”*

To determine this, the following supplementary questions were posed and addressed.

#### **1. What is recreational fishing and how, for example, does tag and release fit in with a definition of this activity?**

Recreational fishing is: fishing for personal use, not for sale or barter, including sports, leisure, wellbeing and social reasons.

- 1.1 For the purposes of the Workshop, recreational catch is inclusive of any fish that dies as a consequence of catch/tag and release fishing.
- 1.2 The clients of charter fishing operators are also recreational fishers.

#### Recommendation 1

That the following definition of a “recreational fishing right” be accepted: “A recreational fishing right is a right of access to an allocation of fish in a fishery that can be utilised by recreational fishing methods”.

#### **2. What are the underlying objectives for a rights allocation process?**

Objective: Security for recreational fishers to access and/or take fish from Commonwealth fisheries, with:

- 2.1 Improved, or at least maintained, quality of recreational fishing.
- 2.2 Simple, cost effective processes and methods of implementation.
- 2.3 Participation by recreational fishers in management processes.
- 2.4 Optimised long-term benefits of resource use to the community.
- 2.5 Support for the process to ensure the long-term sustainability of fisheries resources.

#### Recommendation 2

That the recreational fishing sector be engaged in the management processes for Commonwealth fisheries where there are shared/beneficial interests in the fish stocks.

### **3 What are the existing and desired rights and expectations of recreational fishers and what form(s) do these rights take?**

Existing:

- 3.1 Common law right to access and extraction.
- 3.2 Statutory definition of right of access in some jurisdictions may vary these common law rights.

Desired:

Statutory recognition of the following -

- 3.3 Entitlements to appropriate proportion of total catch.
- 3.4 Increased exclusivity of access to certain resources.
- 3.5 Access rights.
- 3.6 Contribution to management.

Expected outcomes:

- 3.7 Maintaining or improving the quality of recreational fishing, and minimising the erosion of access rights.
- 3.8 Increased recreational participation in management processes (e.g. Management Advisory Committees, Fishery Assessment Groups, the AFMA Board).

#### **Recommendation 3**

That the access rights of recreational fishers be recognised under Commonwealth law, that there should be a statutory allocation and that the recreational sector shall participate in the allocation process.

### **4. Who should hold these rights (allocated share)?**

The Commonwealth is responsible for the allocated share/entitlement (access right) with delegation of the management of the allocated share/entitlement to the States and Northern Territory or competent recreational fishing entities for implementation/management on behalf of all recreational fishers.

#### **Recommendation 4**

That the Commonwealth shall be responsible for the allocated share for the recreational fishing sector, but that the allocated share/entitlement should be delegated, as appropriate, to the States and Northern Territory or competent recreational fishing entities to manage and implement with the recreational groups and the community.

## **5. Is there a fundamental difference between the rights of recreational and charter fishing?**

There are fundamentally no differences in the rights between the two, but it was recognised that both groups should be catered for in the management of the right.

### **Recommendation 5**

That the share be jointly allocated for both the recreational and charter groups and the States and Northern Territory manage the share and negotiate the management system for the groups within the recreational sector in each jurisdiction.

## **6 What statutory form should these rights take?**

There should be a statutory recognition of the right of the recreational fishing sector to a proportion of the total allocation of catch.

6.1 Management of recreational access may be on the basis of:

- spatial/temporal regulation;
- species allocation;
- quantitative (TAC) or effort measures as a catch proxy (e.g. TAE);
- defining of a statutory fishing right; and
- other tools, as appropriate.

### **Recommendation 6**

That flexible management arrangements be applied to the form of recreational fishing right. These may vary from fishery to fishery but should be applied using agreed criteria and principles.

## **7. Define the obligations and responsibilities flowing from these rights?**

There are responsibilities and obligations to:

- 7.1 Conserve and protect fish stocks and the environment;
- 7.2 Comply with management regulations and plans, codes of practice and licensing and data reporting requirements;
- 7.3 Respect other user rights, working with other sectors to resolve conflicts;
- 7.4 Accept the need to contribute to the management and allocation process and recognise the cost of management; and
- 7.5 Contribute to meeting Australia's obligations under international agreements.

#### Recommendation 7

There are responsibilities and obligations that must be met by those people who benefit from these rights. These responsibilities include maintaining sustainability, contributing to meeting international obligations, abiding by and participating in management arrangements and respecting the rights of other sectors.

### **8. How should the resources necessary to give effect to the outcomes sought be funded?**

Funding will need to be sourced from Commonwealth and/or State and Northern Territory Governments in conjunction with recreational user-generated revenue.

#### 8.1 Potential funding mechanisms could include:

- permits / licences to take specific Commonwealth-managed species with a condition of recreational input to expenditure of revenue in management and research.
- specific species catch tags; and
- levy options.

#### 8.2 The Commonwealth should fund the establishment of arrangements to determine actual services and delivery costs.

#### Recommendation 8

Funding should be sourced from Commonwealth and/or State and Northern Territory Government in conjunction with recreational user-generated revenue.

### **9. General Principles of Resource Sharing**

#### Recommendation 9

That the following general principles of resource sharing be adopted by jurisdictions:

- a) Fisheries resources are a common property resource managed by government for the benefit of present and future generations.
- b) Access to the resources requires the ongoing sustainability of those resources and the ecosystems on which they depend.
- c) Access to the fisheries resources will be based on the application of all ecologically sustainable development (ESD) principles.
- d) Government should provide the opportunity for adequate consultation with interested and affected stakeholders prior to any allocation or re-allocation of these resources.
- e) Decisions on allocation should be taken only after considering the best available information, accepting that some decisions will need to be made on the basis of uncertain information.

- f) The Commonwealth Government shall establish a sustainable total catch<sup>1</sup> level for all Commonwealth-managed fisheries and explicit allocations of catch designated to each user group.
- g) Management measures for each user group shall ensure that its catch of the target species or stocks is constrained within the total catch<sup>2</sup> level set for that group.
- h) Total fishing mortalities on the stocks by all users shall not exceed the total catch<sup>3</sup> levels, including bycatch and mortality of released fish.
- i) Management measures must provide users with the opportunity to access their allocation.
- j) Where re-allocation of fisheries resources from one user group to another results in erosion of existing rights, there will be a need for consideration of compensation and adjustment issues.
- k) With allocation of rights comes a responsibility on all sectors to share the fisheries management costs. Additional funding will be required to support the recommendations in this report.

**B. Develop frameworks for resource sharing for the recreational fishing sector, consistent with the principles applying to other sectors and ecologically sustainable development.**

To address this question, the four working groups addressed the following supplementary questions:

**10. How do you determine the resource allocation shares between the sectors?**

- 10.1 Progressing allocation requires transparent principles, priorities and clear allocation criteria.
- 10.2 Criteria for allocation in each assessed fishery must be examined through a transparent process that takes into account all sectors' interests in fisheries, including current access rights, historical catch or historic involvement.
- 10.3 Criteria for allocation must use appropriate and agreed allocation principles, which are understood by all stakeholders. Consultation with stakeholders is essential, as are clear evidentiary procedures to validate information on which to make allocation decisions.
- 10.4 In determining the initial shares to Commonwealth fisheries between sectors, the process shall seek to minimise economic and social disruption.

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<sup>1</sup> Catch includes catch and effort.

<sup>2</sup> Catch includes catch and effort.

<sup>3</sup> Catch includes catch and effort.

- 10.5 Before resource allocation can be attempted, best available information is required in support of all the agreed allocation criteria.
- 10.6 In the event of re-allocation, additional criteria may need to be taken into account, such as:
- community interest in the fishery and
  - maximisation of benefits to society through time.
- 10.7 Where the resource sharing arrangements result in re-allocation of shares between sectors there will be a need for adequate compensation.

Recommendation: 10

That the Commonwealth Government, using the above principles and guidelines, engage all stakeholder groups to further develop the process for fisheries resource allocation to the recreational sector.

### **C. Develop possible mechanisms/arrangements for rights-based management for the recreational fishing sector that are compatible with the frameworks applying to other sectors.**

To address this question the four working groups addressed two supplementary questions:

- How do you allocate the shares?
- How do you manage these shares?

## **11. How do you allocate the shares?**

- 11.1 Initial information on sectoral catch has to be identified and compiled in consultation with stakeholder groups.
- 11.2 It is proposed that, for each fishery, working groups are assembled to agree on allocation criteria, review the available information and advise on preliminary allocation of shares, based on a consideration of the previously agreed allocation criteria.
- 11.3 Where consensus is reached, the draft recommendation is presented to the Commonwealth Minister with responsibility for fisheries and aquaculture. Where consensus is not reached, the Minister may utilise an independent adviser (or a form of Independent Allocation Panel) to recommend an allocation, based on the agreed allocation criteria.
- 11.4 The Commonwealth Minister shall decide on the allocation of sectoral shares and may consult with relevant jurisdictions in doing so.
- 11.5 Initial allocations are envisaged as being in place for a minimum of five years, with provision for adjustment to the initial allocation thereafter. Any re-allocation will need to take account of market value.

- 11.6 Allocations may be defined as a proportion of a target catch level or an equivalent/proxy, or through spatial and temporal arrangements.
- 11.7 It is envisaged that there may be need for some legislative changes to accommodate the new arrangements, including under Offshore Constitutional Settlement arrangements, where applicable.
- 11.8 Other fisheries resource user groups can be accommodated in the allocation through similar principles and mechanisms.
- 11.9 It should be noted that these principles could be extended to the provision of similar entitlements for traditional/customary Indigenous uses, aquaculture and non-extractive users.

#### Recommendation 11

That the preference is for a transparent allocation process, managed by a working group chaired by the Commonwealth, for each relevant Commonwealth fishery. If this is not successful, there should be scope to resort to the use of an Independent Adviser or the use of a form of Independent Allocation Panel.

## 12. How do you manage these shares?

- 12.1 Once the initial recreational fishing sector allocations have been made it is envisaged that the States and the Northern Territory, in consultation with the recreational fishing sector, would undertake operational management.
- 12.2 Current legislation may need to be reviewed to ensure it is adequate to enable effective management of sectors.
- 12.3 Management methods require adequate monitoring of catches and appropriate level of surveillance and compliance.
- 12.4 The Commonwealth should meet allocation costs. Ongoing management costs may be funded by the Commonwealth or States and Northern Territory in conjunction with user-generated revenue. This recognises that with rights comes a responsibility for all sectors to share attributable fisheries management costs.
- 12.5 A Commonwealth waters<sup>4</sup> recreational fishing permit/ endorsement, or some levy system, could be implemented to raise funds for management (including inter-sectoral financial adjustments), research and compliance requirements.
- 12.6 The Fisheries Research and Development Corporation's funding formula under these new arrangements should be reviewed, taking account of the economic contribution of recreational fishing.
- 12.7 Management of inter-sectoral allocations will require appropriate expertise from the recreational sector on the relevant Management Advisory Committees (MACs) and Fishery Assessment Groups (FAGs).
- 12.8 An explicit communication strategy should also be implemented by the Commonwealth to inform the recreational fishing public of the new multi-sectoral approach in Commonwealth fisheries.

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<sup>4</sup> The concept of a 'Commonwealth waters recreational permit' would be easier to implement than a specific 'Commonwealth species/Commonwealth fisheries-based licence'. This area requires further investigation.

Recommendation 12

That the allocated share to the recreational sector is best managed by the States and the Northern Territory through the establishment of appropriate management arrangements. As such, it is recommended that these arrangements be finalised as a matter of urgency.

Recommendation 13

That the Commonwealth and the States and Recfish Australia investigate as a matter of urgency a Recreational Fishing Cost Recovery Process for recreational fishing in Commonwealth waters. This process should consider the appropriateness of mechanisms to raise funds that could be used to defray any additional costs associated with the management of the recreational fishing allocation at the Commonwealth and State level.

## Moving Forward

The Workshop noted that there are issues relevant to fisheries resource sharing which require a strong national focus and that the recommendations from this workshop should be dealt with as a matter of priority by the Marine and Coastal Committee and the Natural Resource Management Ministerial Council.

The Workshop:

- Asks that governments, through the Marine and Coastal Committee in the first instance, consider the recommendations and direction provided by this workshop and, as appropriate, implement the statement of principles and strategies for fisheries resource sharing in consultation with the States and all stakeholders.
- Recognises that the development and implementation of these principles and strategies will be successfully developed in a practical and feasible way only through the establishment of appropriate management arrangements between the Commonwealth and the States and Northern Territory. It is recommended that these arrangements be finalised as a matter of urgency.
- Recommends that the Marine and Coastal Committee through the Australian Fisheries Managers Forum create a sub-committee on resource sharing to ensure that the recommendations and the principles from this workshop continue to be developed and implemented. This working group must be representative of all interest groups.
- Recommends to governments that fisheries resource sharing for the Indigenous sector is a separate, but equally important issue, and that this should be dealt with in a separate workshop, as it requires appropriate stakeholder participation.
- Recommends to governments that, as a matter of priority, the full implications of the funding of these recommendations be identified and apportioned in accordance with normal cost recovery policies as soon as possible, recognising the principle of 'user pays'.
- The Workshop recognises that there is a high priority for research to estimate recreational catch and appropriate monitoring mechanisms for Commonwealth fisheries.

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