

NORTHERN TERRITORY FISHERY RESOURCE SHARING FRAMEWORK

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Introduction

The Northern Territory's (NT) fisheries resources are shared by many users. Coastal Aboriginal people recognise 'sea country' out to the horizon and many Aboriginal communities have strong customary links with our aquatic environments and rely on fish for food, culture and potential economic development opportunities. Our commercial fisheries provide valuable supplies of high quality seafood such as mud crab, tropical snappers, barramundi, shark and mackerel to restaurants and retail markets. Recreational fishing is an intrinsic part of the Territory lifestyle and quality fishing experiences attract visitors to the Territory and support a growing fishing tour operator industry. Our aquaculture industry produces some of the best pearls in Australia and supports increased demand for quality local seafood.

Territorians have a collective responsibility to ensure that the NT's fisheries resources, and the habitats upon which they depend, are ecologically sustainable and used in a manner which optimises community benefit for current and future Territorians.

The NT is entering a new era of management based on growth and development in the region. With an international drive for food production and security, there is a need to move to a clear and more strategic way of managing our fisheries. Fisheries management must be able to change in response to influences whilst minimising impacts on users. Such influences include:

- Improved information and understanding of sustainable harvest limits of fish stocks, aquatic habitats and the broader environment.
- Changing population pressures including increased coastal development to cater for increases in populations.
- Changes in community views and pressure on the use of fisheries resources.
- Growth of one or more sectors and/or the share of limited resources between fisheries sectors and other marine resource user groups.

The Northern Territory Fisheries Resource Sharing Framework (the framework) provides a strategic, transparent and consistent approach to guide government decision making on sharing the NT's fisheries resources in accordance with the objects of the NT Fisheries Act (the Act).

The framework establishes a participatory process to deliver factual advice to Government on sharing the NT's fisheries. Principles that will underpin decisions on how best to share fisheries resource between users groups and criteria to evaluate sharing options are outlined in the framework. Allocating a proportional share of the fisheries resource to user groups is regarded as a primary mechanism in sharing the NT's fisheries. Aboriginal customary use of the Territory's fisheries resources will be recognised as a priority in all resource sharing decisions.

All significant resource sharing issues will be considered under the framework, whether arising from specific formal proposals from user groups, fisheries management planning processes or government initiatives.

Acknowledging the overarching importance of sustainability, the primary purpose of establishing a resource sharing framework is to optimise the use of the resource for the benefit of the community and to enable equitable and fair access to the fisheries resources. Sustainability concerns (whether it be entire stocks or localised depletions) may be considered under the framework, but the framework will not interfere with the Government's capacity to act to resolve sustainability issues if required and by the most appropriate means according to the circumstances.

Access to waters overlying Aboriginal land will continue to be considered as part of negotiations between government and traditional owners, and independently of resources sharing process established by this framework.

Values and Aspirations of the Territory's Fishery Sectors

Stakeholders of NT aquatic resources can be broadly categorised into the following sectors: broader community, Aboriginal customary use, seafood consumers, commercial fishing, recreational fishing, fishing tourism, aquaculture and environmental conservation. The values and aspirations of stakeholders vary but all are valid in consideration of resource sharing issues. Values and aspirations are likely to change over time and at times are likely to conflict. Ultimately, however, stakeholders share common value of sustainability to allow future generations to benefit from healthy aquatic resources. The framework provides a transparent process to consider all values and aspirations in making resource sharing decisions.

Legislation

The Act and its corresponding legislation provide the legal basis for managing the NT's fisheries resources. The objects set out in the Act must underpin all decisions relating to the management (including sharing) of fisheries. The objects of the Act are:

- (a) To manage the aquatic resources of the NT in accordance with the principles of ecologically sustainable development, whether managing a single fish species or an ecosystem, to ensure the promotion of appropriate protection of fish and fish habitats.
- (b) To maintain a stewardship of aquatic resources that promotes fairness, equity and access to aquatic resources by all stakeholder groups, including:
 - (i) Indigenous people
 - (ii) commercial operators and aquaculture farmers
 - (iii) amateur fishers
 - (iv) others with an interest in the aquatic resources of the Territory.
- (c) by means of a flexible approach to the management of aquatic resources and its habitats, to promote the optimum utilisation of aquatic resources to the benefit of the community.

Resource sharing decisions must be guided by the objects of the Act in such a way that sustainability of the resource is not compromised.

Access to Waters Overlaying Aboriginal Land

In 2008, the High Court of Australia ruled that permission from Traditional Owners was required to access waters overlying Aboriginal land. This typically includes coastal waters between the high and low water mark adjacent to Aboriginal land and tidal rivers. The High Court also confirmed that the NT Fisheries Act applies in all waters throughout the NT, including waters overlying Aboriginal land.

Since the High Court Decision, the NT Government has been negotiating with Land Councils and Traditional Owners to establish agreements that will benefit everyone - Indigenous Territorians, recreational and commercial fishers and other aquatic resource users.

Resource sharing issues will be considered independently of ongoing negotiations with Traditional Owners regarding access to waters overlying Aboriginal land.

Guiding Principles for Fisheries Resource Sharing in the Territory

The following guiding principles will be applied in sharing the Territory fisheries resources.

Sustainability: The on-going sustainability of the resource and the ecosystem on which it depends is paramount. The biological condition, vulnerability and resilience of the fishery must be considered and managed in a precautionary way. The current condition of stocks will be used as the basis for future management.

Customary Use: Resource allocations will ensure the right of Aboriginals to use aquatic resources in a traditional manner is maintained.

Stewardship: Fisheries resources are a common property resource managed by the Government for the benefit of present and future generations. Every Territorian may access the NT aquatic resources in accordance with the applicable management rules. Territorians have a shared interest to ensure that aquatic resources are used in an ecologically sustainable manner.

Information: Decisions should be based on the best available ecological, cultural, economic and social information. Where information is limited, resource sharing decisions should be made on a risk management basis with the ecological sustainability of the resource as the primary objective.

Transparency: Relevant stakeholders shall be consulted and have adequate opportunity for involvement in the resource sharing process. This will include targeted consultation in regional communities. Outcomes should be made with full transparency and be subject to public consideration.

Goal Orientation: Outcomes must be focused on meeting the objectives set out in the Act.

Strategic Development: Resource sharing decisions should be justifiable, balance overall economic, social and cultural benefit to the Territory and provide for optimum utilisation of the resource.

Social Performance: Resource sharing decisions must seek to maximise the long term social benefits that are derivable from the resource, and in doing so give consideration to the full diversity of uses.

Practicality: Resource sharing decisions must be easy to understand and comply with and enforceable by law.

Certainty: Resource sharing decisions shall provide for stability and certainty in management arrangements for all sectors. Each sector will be allocated a proportional share of the resource.

Structural Adjustment and cost contributions: Where there is clear and demonstrable financial loss to a licensee as a result of a resource sharing decision, structural adjustment options for those licensees will be considered. Where possible, autonomous market based mechanisms are to be considered in the reallocation of the resource between or within sectors. The cost of reallocating a fishery resource as a result of a resource sharing decision should be shared.

Fishery Resource Sharing Process

Resource sharing issues can be highly complex, emotive and difficult to resolve. They are dynamic with community demands changing over time. Strategies to manage resource sharing issues therefore need to be adaptive and properly informed by all users and the Government. At the same time, it is important that the fisheries resource sharing process is relatively simple, transparent, inclusive, effective and cost efficient resulting in a considered and evidence based resource sharing decision.

A comprehensive resource sharing process may require detailed and/or new information, extensive input and consultation and complex deliberations. It therefore may take considerable time and demand considerable resources.

In considering fisheries resource sharing issues, the framework approach will be applied which recognises and builds on established fisheries management advisory processes. Where a fisheries resourcing sharing issue cannot be resolved under the existing fisheries management advisory processes, an expert panel process will be implemented (as illustrated in figure 1). The guidelines for considering a fishery resource sharing issue by a fishery management advisory committee or an expert panel are outlined in appendix 1.

Resource sharing options should seek to optimise community benefit within ecological sustainable harvest limits whilst minimising impacts to any sector wherever possible.

The access and/or allocation of aquatic resources will be reviewed as necessary, with that review based on the principles, processes and guidelines outlined in this framework. As management arrangements for fisheries are reviewed, advice will be provided to the Minister on appropriate levels of access and/or allocation.

Fishery Management Advisory Committee

For most of the Territory's fisheries, a Management Advisory Committee (MAC) has been established by either the Director of Fisheries (Director) or the Minister for Fisheries. The MAC assists in the development of management plans for the fishery and/or providing advice on the ecologically sustainable management of a fishery. In the first instance all resource sharing issues (including any proposed changes to existing resource allocation arrangements) will be considered through the relevant fishery MAC, using the policy guidelines and principles outlined in the framework as a basis for providing advice to the Minister.

Proponents seeking a change to existing resource allocation arrangements will be required to submit a formal submission, underpinned by factual information specified in the framework, to the MAC for consideration. The submission shall also include possible options addressing the resource allocation issue.

Where a proposal to change a fishery resource allocation arrangement does not provide sufficient explanation or supporting documentation, the Minister or the Director of Fisheries may advise the proponent that no further consideration will be given to the change until such information is provided.

Within 12 months of receipt of a complete resource sharing submission, the MAC will provide a report to the Minister outlining the nature of issue, the information considered, options for addressing the issue and final recommendations.

The report will be released by the Minister for public consideration and submission for up to 30 days. All submissions received in relation to the report will be of a public nature unless otherwise indicated, and will be considered by the Minister prior to making a decision. The Minister may referred the submissions to the panel or the Director for advice prior to making a decision.

Expert Advisory Panel

Where a resource sharing issue is unable to be resolved through a MAC, the Minister may decide that the issue be considered further under the framework by an expert panel.

The expert panel will be an independent and expertise based advisory panel (the panel) with the primary function of considering and providing advice on a specific resource sharing issue. The panel will be supported (executive support) by the Department of Primary Industry and Fisheries and will be independently chaired by a person appointed by the Minister.

Members of the panel will collectively have a high level of expertise across matters including:

- strategic natural resource management and/or resource sharing, preferably in a fisheries context
- law or administrative or procedural fairness
- natural resource economics, relevant areas of business or private enterprise and/or the formulation of high level public policy
- applied social science within a relevant discipline.

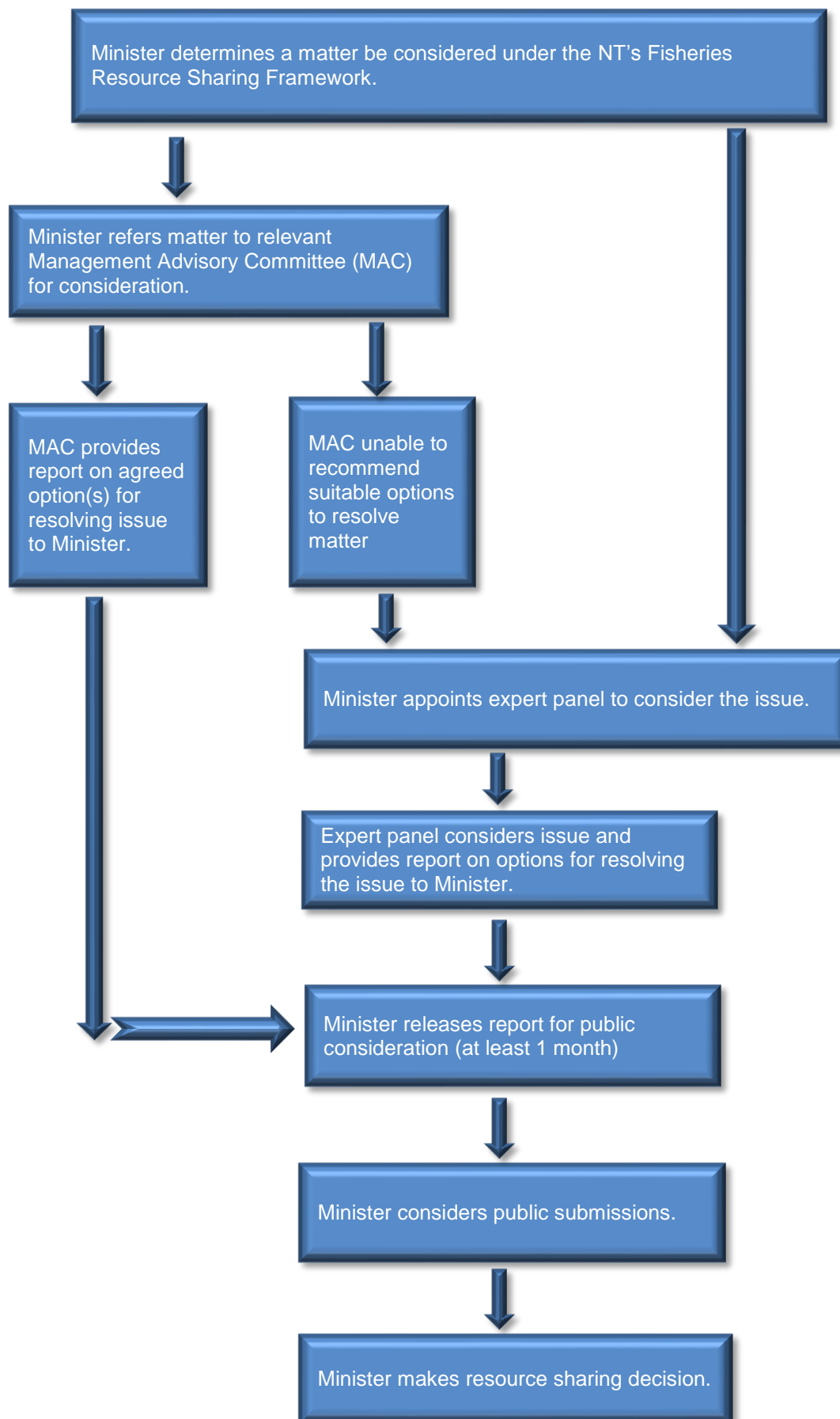
Within 12 months of being established, the panel will provide a report to the Minister outlining the nature of issue, the information considered, options for addressing the issue and final recommendations. The report will be released by the Minister for public consideration and submission for up to 30 days. All submissions received in relation to the report will be of a public nature unless otherwise indicated, and will be considered by the Minister prior to making a decision. The Minister may refer the submissions to the panel or the Director for advice prior to making a decision.

Fisheries Adjustment Assistance

Under the Act there is no legal requirement for compensation when changes to management arrangements are made.

It is recognised that a resource sharing decision may result in a re-allocation of the resource, resulting in direct and demonstrable financial impacts on licensees. In circumstances where a decision has been made to reallocate the resource for the primary purpose of reallocating the fishery resource from one sector to another sector(s) and there is a direct and demonstrable financial impact on businesses or individuals (e.g. loss of fishing grounds, reduction in total allowable catch), Government will consider the need to assist those licensees adjust to the new management environment. The extent and nature of such assistance will be determined by Government following consideration of the recommendations of the MAC or expert panel, on a case by case basis and in consultation with affected persons. This may or may not include financial assistance.

Figure 1: Diagram of Territory's Fisheries Resource Sharing Process



Guidelines for considering fishery resource sharing matters

In considering a resource sharing issue, the relevant Management Advisory Committee or expert panel shall:

- consider all relevant information regarding the state of the resource
- assess current access and allocation of the resource to each sector
- explore the nature of resource sharing issue
- consider relevant and appropriate information on the use of the resource
- identify critical information gaps
- identify options for resolving the issue including appropriate access and allocation of the resource for each sector.
- identify options for structural adjustment assistance and cost contributions where the reallocation of aquatic resources from one sector to another is likely to result in demonstrable financial loss.
- recommend an appropriate implementation plan (including costs) with priorities and timeframes.
- recommend an appropriate timeframe in which to review new allocations.

In developing recommendations for resolving a resource sharing issue, the panel should consider each option in terms of:

- aspirations and needs of each sector
- cultural significance
- contribution to the Territory lifestyle (including sport and recreation opportunities, tourism impacts)
- contribution to the Territory economy (Gross Value of Product and flow on benefits)
- contribution to employment
- consumer access to fresh seafood
- maintenance and growth of regional communities
- health impacts
- qualitative and (where possible) quantitative assessment of the costs and benefits (ecological, social and cultural) to the Territory
- other criteria as relevant to the fishery
- costs of any structural adjustment assistance

In considering a resource sharing issue, the MAC or the expert panel should make use of all appropriate and relevant information including, but not limited to:

- any previous management advisory committee deliberations, advice and recommendations (if any) on the issue
- harvest and ecosystem based consequences of uses and activity
- relevant logbook information from commercial fishermen and fishing tour operators
- relevant Information on recreational and indigenous take.

Submissions from the Department, other fisheries management agencies, stakeholder groups (including Aboriginal, commercial and recreational fishing interests as well as environment) and any other relevant organisations (e.g. local Government, community associations) should be sought and considered as part of the deliberations on the issue.

Sharing the Resource

The sharing of the NT's fisheries resources is to be defined in terms of access and/or allocation. Access and/or allocation should seek to optimise community benefit and equitably share the fishery resources within ecologically sustainable limits. Aspirations and current participation should be taken into account when considering resource access and/or allocation.

Access shall be expressed in terms of the ability of a sector to access the resource. Allocation shall be expressed in terms of level of access to be exercised by an individual or class of individuals to the resource within a sector. Catch by weight (at relevant temporal and spatial scales) is to be used as the preferred unit for estimating level of access and/or allocation of the fisheries resource by a sector.

Current proportional use (implicit catch shares) should be used as a benchmark for explicit catch share determinations and any reductions for sustainability reasons should be underpinned by analysis of impacts to the affected sector(s).

Data

Data used to support decisions should wherever possible be no more than five years old to ensure decisions are made based on contemporary knowledge unless circumstances prevent this. If this data is not available, the panel should use the best available data within the previous five years.

Commercial and Fishing Tour Operator fishery data will be taken from catch and effort logbooks submitted in accordance with the regulations and verified by appropriate means (e.g. observer reports etc.). Recreational fishing data is to be taken from formal scientific and activity surveys. Indigenous data is to be taken from activity surveys.

Cost Benefit Analysis

Social, cultural and economic impacts of different sectoral use are to be described and as far as possible quantified, in terms of the magnitude of the fishery, the types of activities undertaken, the support industries associated, the current infrastructure, the dependence of the community on fisheries activities and any associated amenity issues. Guidelines for undertaking a cost benefit analysis is provided in appendix 2 together with an example of a cost benefit template.

Any additional relevant information should also be considered.

Guidelines for assessing community benefit

The costs and benefits of resource sharing options may be assessed in qualitative and/or quantitative terms.

As a minimum, all resource sharing options will be subject to a qualitative cost benefit analysis. However, wherever possible the costs and benefits should be quantified or the qualitative assessment validated with pertinent data.

Quantitative analysis of social and environmental costs and benefits involves complex socioeconomic modelling that is often costly and time consuming. To that end, a quantitative cost benefit analysis of environment and social costs and benefits will be undertaken under instruction of the Minister where warranted, and the method for that analysis agreed to before the analysis commences.

In performing a cost benefit analysis the following steps should be undertaken:

- Step 1: Describe the fishery and the resource sharing issue being considered.
- Step 2: Define the current situation in terms of harvest, users and sustainability.
- Step 3: Identify and describe potential options for addressing the resource sharing issue.
- Step 4: For each option, describe the positive (benefit) and negative (cost) impacts on each potentially affected party (e.g. customary use, commercial fishing, recreational fishing, fishing tourism, aquaculture) whether the impact be direct or indirect. Where feasible and possible, impacts should be quantified in economic terms. Cost neutral impacts should also be described.
- Step 5: For each option, describe the positive (benefit) and negative (costs) impacts may have on the community, environment, resource and government. Where feasible and possible, these costs and benefits should be quantified. Cost neutral impacts should also be described.
- Step 6: A critical analysis of costs and benefits of each option should be undertaken and articulated in keeping with the principles and guidelines laid out in the framework.
- Step 7: The outcomes of the analysis should be prepared as advice to the Minister with a preferred option identified and recommended based on the critical analysis.

A simple qualitative cost benefit analysis template is provided in Table 1. There are, however, many other qualitative and quantitative cost benefit analyses methods available and the method used should be considered on a case by case basis for each resource sharing issue.

Table 1: Example of Cost Benefit Option Analysis Template (to be completed for each option)*

Category	Benefits	Benefits	Costs	Costs	Ratio (Benefits/Costs)	Rank
		High=3		High=3		
		Med=2		Med=2		
		Low=1		Low=1		
Environment						
Customary Fishing						
Commercial Fishing						
Recreational Fishing						
Fishing Tourism						
Aquaculture						
Community						
Governance						

*All costs and benefits should be described under each category.