



Australian Government  
Department of Agriculture,  
Water and the Environment

# Commonwealth fisheries resource sharing framework



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# Acknowledgment of Country

The Australian Government recognises and acknowledges Aboriginal and Torres Strait Islander peoples as the First Peoples of this country. The Australian Government pays respect to the traditional custodians and elders, past, present and emerging, whose knowledge and wisdom have ensured the continuation of culture and traditional practices in the face of colonisation. The Australian Government pays tribute to Aboriginal and Torres Strait Islander peoples' enduring stewardship of this country and honours their ongoing contribution to the spiritual, environmental, social, cultural, political and economic fabric of Australian society.

# Foreword

As an island nation, fishing is fundamental to Australia and Australians. It is integral to our way of life, our economy and our communities. Our Commonwealth fisheries play a critical role in this. They are a shared resource that provide a range of benefits to us all, from access to the best seafood in the world, to a source of income for many, to a recreational activity and cultural connection. With multiple users accessing Commonwealth fisheries, sharing these resources in a fair and equitable way has been a priority of government and fishers for decades.

I am, therefore, very pleased to release the Commonwealth fisheries resource sharing framework. The framework is designed to ensure equitable access to Commonwealth fisheries resources among commercial, recreational and Indigenous fishers, for the benefit of the Australian community. It will give fishers greater certainty about their access to our shared fisheries resources, and provide a clear way to share Commonwealth fisheries resources between the fishing sectors.

The framework was developed in close consultation with commercial, recreational and Indigenous fishing stakeholders by my department and the Australian Fisheries Management Authority. I would like to thank all stakeholders and members of the public who provided invaluable insights to create the framework.

Having a sustainable and strong fishing industry is a key priority for the Australian Government. The Commonwealth fisheries resource sharing framework is an important part of ensuring sustainable economic growth for the Australian fisheries sector and reaching industry's goal of growing agriculture, forestry and fisheries to \$100 billion industries by 2030.

The government will continue to lead and promote a sustainable, productive, internationally competitive, and profitable fisheries industry into the future.



Senator the Hon. Jonathon Duniam

**Assistant Minister for Forestry and Fisheries**

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# Introduction

Commonwealth fish stocks are a public resource that the Commonwealth manages on behalf of, and for the benefit of, all Australians. Multiple users access Commonwealth fisheries resources, including commercial, recreational and Indigenous fishers. Under the *Fisheries Management Act 1991* (FM Act), the Australian Fisheries Management Authority (AFMA) is responsible for managing Commonwealth commercial fisheries on behalf of the Commonwealth. However, it must have regard to the interests of commercial, recreational and Indigenous fishers in its fisheries management.

The *Commonwealth fisheries resource sharing framework* will enable the Commonwealth to make arrangements to share a total sustainable mortality between fishing sectors. AFMA, and the Commonwealth fisheries minister in their administration of the FM Act, must ensure that any decisions made to share Commonwealth fisheries resources are consistent with the objectives of the FM Act.

## Background

In Australia, fisheries management responsibilities are spread across multiple jurisdictions. Under the Offshore Constitutional Settlement (OCS), state and Northern Territory governments are generally responsible for managing fisheries out to 3 nautical miles (NM) from the coast. The Commonwealth is generally responsible for managing fisheries from 3 NM to the 200 NM limit of Australia's exclusive economic zone (Commonwealth waters). However, these default management responsibilities can be varied through instruments known as OCS arrangements. OCS arrangements allow a fishery that exists wholly or partly in waters that are the responsibility of one jurisdiction, to be managed in accordance with the law of the other jurisdiction.

Recreational and Indigenous customary fishing have historically taken place closer to the shoreline and are, therefore, regulated by the state and territory governments. This includes Indigenous customary fishing and recreational fishing within Commonwealth waters adjacent to each state's respective coast. An exception is fishing in the Torres Strait Protected Zone, which is generally managed by the Protected Zone Joint Authority and is out of scope for this framework.

Despite not managing state commercial, recreational or Indigenous fishing, AFMA takes the catch of these sectors into account when determining sustainable harvest levels. The [Commonwealth Fisheries Harvest Strategy Policy](#) (Agriculture 2018b), developed to give effect to a ministerial direction made under the FM Act, requires all sources of mortality to be taken into account when determining a commercial total allowable catch (TAC) for a Commonwealth fish stock. In Commonwealth fisheries, a commercial TAC is generally derived by subtracting the estimated mortality from other sectors from the recommended biological catch (RBC). As a result, the commercial TAC is affected by the level of recreational, Indigenous and state and territory commercial catch.

Determining a RBC and commercial TAC under the Commonwealth Fisheries Harvest Strategy Policy (Agriculture 2018b) ensures sustainability of Commonwealth fisheries. However, the policy does not detail the Commonwealth's position on sharing fisheries resources that are accessed by multiple

sectors. The framework is intended to provide a principles-based approach to managing access and allocation issues in Commonwealth fisheries.

## Resource sharing arrangements

A resource sharing arrangement sets out provisions to permit access to, and potential allocation of, fisheries resources between different fishing sectors.

‘Access’ is the ability or right of each sector to use the resource. In Australia, fishing access rights for commercial fishers are generally defined in the form of licences, permits or statutory fishing rights. In contrast, other user groups (recreational and Indigenous fishers) are generally not limited in their access to a fishery (although may have licence fees and restrictions on catch such as bag limits) and do not have rights that are exclusive or tradeable (Knuckey et al. 2019).

‘Allocation’ is how much of the resource is available to each sector. This includes the process of determining allocations and the unit of allocation (for example, a percentage of total catch). Allocations may be in the form of quota; bag, boat or trip limits; area or time restrictions; or other effort limits (Knuckey et al. 2019).

A sector’s ability to access fisheries resources (including its allocation under a resource sharing arrangement) may be impacted by spatial or temporal factors, including area or seasonal closures. Both access and allocation will be considered under a resource sharing arrangement to meet the objectives of this framework.

Resource sharing arrangements will vary case by case, depending on the fishery and the particular resource sharing issues in that fishery.

## Developing the resource sharing arrangement

AFMA and the Assistant Minister for Forestry and Fisheries (supported by the Department of Agriculture, Water and the Environment) are responsible for developing resource sharing arrangements on behalf of the Commonwealth. The extent of each party’s involvement will vary depending on the nature of the resource sharing issue and the intended outcome of the arrangement.

Because the Commonwealth does not manage customary Indigenous, recreational or state commercial fishing, the Commonwealth will seek to work with the relevant state or territory governments when establishing a resource sharing arrangement. Resource sharing arrangements may be made by the Commonwealth as a fisheries management decision under the FM Act (for example, by amending the fishery’s management plan or harvest strategy). Arrangements may also be made between the Commonwealth and other governments, involving relevant ministers. In some cases, arrangements may be made between fishing sectors, supported by the relevant jurisdictions.

## Scope

This framework outlines the principles and approach that the Commonwealth will apply when:

- entering into arrangements to share fisheries resources across fishing sectors and between Commonwealth, state and territory jurisdictions
- reviewing those arrangements.

The framework has been developed for use by the Commonwealth in line with:

- existing Commonwealth fisheries legislation, such as the FM Act
- international agreements to which Australia is a party, such as the United Nations Declaration on the Rights of Indigenous Peoples (UNGA 2007)
- policies, such as the Commonwealth Fisheries Harvest Strategy Policy (Agriculture 2018b).

Under this framework, resource sharing arrangements may be made to determine access to, and allocation of, Commonwealth fisheries resources between Indigenous, recreational and commercial (Commonwealth, state or territory) fishers.

## Out of scope

Under the OCS, the Commonwealth does not manage commercial fishing in state and territory waters, recreational fishing or customary Indigenous fishing. The framework is not binding on state and territory governments. It will not affect management and resource sharing arrangements of state and territory fisheries that do not involve the Commonwealth or Commonwealth-managed stocks.

The framework will not address spatial access to Commonwealth waters for the purpose of oil and gas exploration or extraction, offshore wind farms, aquaculture farms or marine parks. Although this access may affect the use of fisheries resources, it is approved and managed under separate legislation and processes – for example, assessments undertaken by the National Offshore Petroleum Safety and Environmental Management Authority under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*, approval of activities involving the marine environment under the *Environment Protection and Biodiversity Conservation Act 1999*, or regulation of aquaculture activities in state waters under state and territory legislation.

Management arrangements for commercial and customary fishing in the Torres Strait Protected Zone are governed by the provisions of the *Torres Strait Fisheries Act 1984*, which gives effect to Australia's obligations under the *Torres Strait Treaty* and will not be covered by the framework.

Nothing in the framework is intended to affect the operation of the *Native Title Act 1993*.



# 1 Objective

This framework is designed to ensure equitable access to Commonwealth fisheries resources among commercial, recreational and Indigenous fishers, for the benefit of the Australian community.

This objective is consistent with the [Commonwealth Fisheries Policy Statement](#) (Agriculture 2017). The objective should be read subject to Commonwealth fisheries legislation and in conjunction with other existing Commonwealth fisheries policies.

This objective will be met through applying the principles and process set out in this framework.

## 2 Principles

AFMA, in the performance of its functions, and the minister, in administration of the FM Act, are obliged under that Act to pursue and have regard to a number of objectives to the extent they are relevant. The principles of the framework provide guidance on how the minister and AFMA may seek to meet the FM Act objectives when developing resource sharing arrangements.

The principles reflect both legislative objectives and government policy relevant to fisheries resource sharing. However, if there is conflict between these principles and the legislative objectives, the legislative objectives prevail.

When entering into resource sharing arrangements with non-commercial sectors and state and territory governments, the Commonwealth will be guided by these principles:

- Sustainably manage Australian fisheries.
- Consider the benefits from all fishing sectors to the Australian community.
- Ensure decision-making is transparent, participatory and based on best available information.
- Acknowledge existing rights of fishing sectors.
- Increase certainty for users.
- Ensure arrangements are efficient and cost-effective.
- Ensure appropriate sharing of management costs.
- Acknowledge and protect fishing rights of Aboriginal and Torres Strait Islander peoples.

### 2.1 Sustainably manage Australian fisheries

Sustainable management is the most important factor in any resource sharing arrangement. Ecological sustainability of Australia's fisheries is vital for species and ecosystem viability and long-term economic sustainability. The Commonwealth is responsible for ensuring the use of Commonwealth fisheries is in line with the principles of ecologically sustainable development. Competition for fisheries resources by different sectors, if not adequately addressed, can lead to unsustainable outcomes.

Resource sharing arrangements will allow stocks to be managed in line with existing Commonwealth policy. This includes the [Commonwealth Fisheries Harvest Strategy Policy](#) (Agriculture 2018b) and the [Commonwealth Fisheries Bycatch Policy](#) (Agriculture 2018a). All known sources of fishing mortality on a stock should be accounted for to ensure harvest strategies meet their objectives and that total mortality is sustainable.

Total mortality of a stock within a fishery should not exceed the RBC for that stock determined under the harvest strategy. Adequate data and management practices are essential to ensuring that sectors operate within the terms of their resource sharing arrangement and that mortality levels remain within sustainable levels.

## **2.2 Consider benefits from all fishing sectors to the Australian community**

All fishing sectors provide benefits to the Australian community. These benefits are demonstrated in several ways and are not necessarily financial in nature (Edwards 1990).

In developing resource sharing arrangements, the Commonwealth may consider the benefits from all fishing sectors to the Australian community. Some examples of benefits that may be considered are:

- net economic returns of commercial fisheries
- recreational fishing experience
- community and individual wellbeing
- Indigenous fishers' cultural connection to sea country
- increased economic development opportunities for Aboriginal and Torres Strait Islander peoples.

## **2.3 Ensure decision-making is transparent, participatory and based on best available information**

Resource sharing decisions will be:

- based on the best available information
- made in consultation with relevant stakeholders
- transparent.

When making decisions about a resource sharing arrangement, the best available information must be used. This includes verifiable and up-to-date fisheries data, such as catch and effort data from all sectors. Economic, environmental, social and cultural information (for example, Indigenous cultural and ecological knowledge and data) must also be used as appropriate and where available. Preference will be given to information held by fisheries management agencies.

Adequate information is crucial when establishing a resource sharing arrangement and for ongoing management of the stock. Relevant sectors and state and territory governments will be expected to share information with the Commonwealth when developing resource sharing arrangements, subject to any applicable information disclosure provisions. Where insufficient information is available, scientific estimates may be used or independent research commissioned to fill data gaps. Lack of complete certainty should not be a reason for failing to take action where a need has been identified.

During the decision-making process, the government will consult relevant stakeholders from all sectors and provide an opportunity for those that may be affected by a resource sharing arrangement to provide input. This will include engagement with Aboriginal and Torres Strait Islander communities likely to be affected by a future resource sharing arrangement.

All finalised resource sharing arrangements will be made publicly available on relevant Australian Government websites.

## **2.4 Acknowledge existing rights of fishing sectors**

In developing resource sharing arrangements, the Commonwealth will consider existing and historical rights and access to Commonwealth fisheries resources. The Commonwealth will seek to recognise these rights and access in a resource sharing arrangement, in accordance with the laws and policies that govern each sector's fishing entitlements.

## **2.5 Increase certainty for users**

In part, resource sharing arrangements will be established to provide greater certainty of access to users. This is particularly important to those that use Commonwealth fisheries resources for their livelihood. Arrangements will be established with a long-term view to ensure they can be maintained for as long as appropriate.

## **2.6 Ensure arrangements are efficient and cost-effective**

Under the FM Act, AFMA and the minister must pursue efficient and cost-effective fisheries management. When determining whether a resource sharing arrangement is necessary and deciding what type of arrangement will be most appropriate, the Commonwealth will take a risk-based approach to the level of intervention required. In this process, the Commonwealth will consider:

- risks to sustainability
- economic, social and cultural value of the stock
- potential benefits of a resource sharing arrangement (such as increased security of statutory fishing rights or recreational fishing benefits)
- costs associated with the arrangement and ongoing management.

Where possible, the Commonwealth will seek to reduce red tape and compliance costs while maintaining sufficient management oversight to ensure the objectives of the arrangement are met.

## **2.7 Ensure appropriate sharing of management costs**

The costs of Commonwealth commercial fisheries management are recovered from the commercial fishing industry in accordance with the [Australian Government Cost Recovery Guidelines](#) and the AFMA Cost Recovery Impact Statement, which is updated annually. The costs of managing the commercial fishery are attributed to the beneficiary of each particular management activity (as opposed to the specific allocation proportion), and the commercial industry is only charged for costs attributed to them. It is intended that no one sector should subsidise another sector's cost.

In some cases, the Commonwealth may deem it appropriate for non-commercial sectors to contribute to the costs associated with their use. This decision (including determining how costs may be recovered) will be made with the relevant state or territory government.

Aboriginal and Torres Strait Islander communities will not be expected to bear any management costs associated with their access to a fishery for customary fishing.

## 2.8 Acknowledge and protect fishing rights of Aboriginal and Torres Strait Islander peoples

The Australian Government acknowledges Aboriginal and Torres Strait Islander peoples as the first custodians of Australia's marine and freshwater environments, and the original fishers, traders and managers of Australia's fisheries resources. Aboriginal and Torres Strait Islander peoples have a deep connection with our ecosystem. They have practised ecosystems-based management for countless generations and understand the relationship between their communities and the wellbeing of the land and sea. In making resource sharing arrangements, the Australian Government will work to ensure the practices, knowledge, wisdom and skills of Aboriginal and Torres Strait Islander peoples are reflected through participatory and collaborative management processes, consistent with the shared decision-making approach committed to through the [National Agreement on Closing the Gap](#).

The Australian Government recognises the rights of Indigenous Australians to participate in customary and commercial fishing, including under the *Native Title Act 1993* and the United Nations Declaration on the Rights of Indigenous Peoples. The [Principles Communiqué on Indigenous Fishing](#) was endorsed by the Australian Government in August 2005 (NNTT 2004). The Principles define customary fishing as fishing in accordance with relevant Aboriginal and Torres Strait Islander laws and customs for the purpose of satisfying personal, domestic or non-commercial communal needs (NNTT 2004).

The Principles encourage the recognition of customary fishing practices and greater Indigenous involvement in commercial fisheries. Access to fisheries resources provides valuable economic development opportunities for Aboriginal and Torres Strait Islander peoples and communities. In developing and implementing resource sharing arrangements, the Australian Government will support arrangements that increase Indigenous involvement in fisheries businesses and related commercial opportunities, and consider other processes (such as native title claims).

When making a resource sharing arrangement, the customary fishing rights of Indigenous fishers and communities will be considered first. This includes considering the impact of non-Indigenous fishing on Indigenous customary fishing practices. Where customary fishing is identified in a fishery, a sufficient level of catch will be set aside for local Indigenous communities before allocating access to other sectors. Any resource sharing arrangement will be made in a way consistent with the *Native Title Act 1993*.

To support the rights and interests of Aboriginal and Torres Strait Islander communities – such as access to a fishery that has particular cultural significance – spatial or other management arrangements may be considered in resource sharing arrangements.

## 3 Process for making a resource sharing arrangement

### 3.1 Identify the need for a resource sharing arrangement

Resource sharing arrangements are not intended to be established for all Commonwealth fisheries where multiple sectors have an interest. In many cases, catch from non-commercial sectors might be negligible and formal monitoring or arrangements would not be cost-effective or necessary.

The Commonwealth may decide whether a fishery needs a resource sharing arrangement, following:

- advice from AFMA, including information provided to the AFMA Commission by the relevant resource assessment group or management advisory committee
- advice from the department
- a formal submission from a representative organisation (including an Aboriginal land council or native title representative body).

Discussions will also be held with the relevant state or territory government.

The decision may be based on a range of factors, including information about changes to catch levels, shifts in stock abundance or distribution due to non-fishing-related activities or processes.

A resource sharing arrangement will be prioritised in cases where the lack of a formal arrangement may make it more difficult for AFMA or the minister to meet their fisheries management objectives under the FM Act or for the Commonwealth to meet any other domestic or international obligations.

When a decision is made that a resource sharing arrangement is required, the minister and AFMA will identify the roles and responsibilities of the minister, AFMA and the department in developing the arrangement.

### 3.2 Identify interests of stakeholders

Once the Commonwealth has decided that a resource sharing arrangement is required, stakeholders that may be affected by an arrangement will be identified and contacted. This will occur early in the process to ensure that stakeholders are involved in developing the arrangement from the outset. This stakeholder engagement will be led by either AFMA or the minister (via the department) according to the roles and responsibilities identified under [section 3.1](#).

Stakeholders will be engaged in a way that is appropriate for the relevant sectors and fishery. Appropriate and effective engagement for all fishing sectors can be a challenge. However, this step must be prioritised. Indigenous communities with an interest in a fishery may be consulted through various channels, such as Aboriginal land councils, native title representative bodies

and service providers, prescribed body corporates, native title claimants, traditional owners or other representative organisations. Commercial fishers with rights in a particular fishery can be engaged directly or through representative bodies. Recreational fishers are likely to be engaged through national and state or territory recreational fishing peak bodies or associations.

Stakeholders will be informed of the intention to establish a resource sharing arrangement for a particular stock. Throughout the engagement process, the Commonwealth will seek to understand what each sector wants from a resource sharing arrangement and will facilitate communication between sectors to increase understanding between different user groups. Where sectoral allocations are envisaged under the arrangement, the Commonwealth will also work with sectors to discuss how they see their allocation being managed.

### **3.3 Determine management goals**

The goals of the resource sharing arrangement will be determined in consultation with stakeholders and the relevant state or territory governments. Goals must be consistent with objectives of the FM Act and principles of the framework, and take into account what each sector hopes to gain from their access to the fishery. Management goals will guide decisions on the best use of the fisheries resources.

Each sector is likely to have different management goals, and these goals will need to be balanced. The Commonwealth may use a combination of approaches to balance and address the management goals of all sectors (see [section 3.5](#)). For example, the Commonwealth may consider spatial arrangements, catch allocation, and/or altering a target reference point.

### **3.4 Gather best available data**

Resource sharing arrangements will be made using the best information available at the time. The type of data required for a resource sharing arrangement will depend on the management goals of the resource (see [section 3.3](#)). The Commonwealth will work with the relevant state or territory government to gather all available relevant fishery data (for example, catch and effort data, and recent stock assessments).

Data availability for each fishery and on each sector's catch will vary. After collection of all available information, gaps in the data will be identified. The quantity and quality of data required for a resource sharing assessment will depend on the type of fishery and the nature of the resource sharing issue.

The resources required to collect and collate data that could inform allocations for some sectors, including catch, social, economic or cultural data, may be significant. The Commonwealth will seek cost-effective methods of data collection for the recreational and Indigenous fishing sectors, in particular.

Where a resource sharing arrangement has been prioritised, not having the desired quantity or quality of data should not prevent an arrangement being made.

### **3.5 Determine how a decision will be made**

How a resource sharing arrangement is made will depend on the characteristics of the fishery, the potential impact of the allocation or reallocation, the data available and the management goals of the arrangement. Several decision-making approaches may be appropriate, including:

- negotiation between sectors and governments
- assessment of sectors' use of the resource
- comparison of the benefits of different allocations.

Coming to a resource sharing arrangement may involve the use of multiple approaches.

Negotiation will be appropriate in many situations. This involves all sectors with an interest in the fishery negotiating an allocation or other resource sharing outcome (including spatial or temporal separations). If all relevant sectors reach broad agreement on the details of an arrangement, the Commonwealth will adopt the agreed arrangement if it is consistent with the principles of the framework, objectives of the FM Act and other relevant government objectives. However, agreement between sectors will not always be achievable, and will not prevent an arrangement being made.

Assessment of each sector's historical use of the resource will also be involved in the decision-making process in many cases. Consideration will be given to catch history data and information about traditional Indigenous interest in the fishery. In considering catch history, data should be recent at the time of determining allocations. A sector should not be rewarded for significantly increasing its catch after identification of a resource sharing issue. Consideration must be given to any bias in the data that may affect the relative catch shares of sectors.

A range of economic analysis methods could also be applied depending on the data and resources available. In some cases, detailed economic analysis that involves steps to quantify the net economic benefits of various allocation options may be appropriate. However, this requires a large amount of data, can be very costly and may be unsuitable for valuing the Indigenous sector. Due to these complexities, detailed, quantitative economic analyses are unlikely to be used in most cases. Economic and social science research projects on this subject may one day provide tools to further support this approach. Until then, simpler, qualitative analysis approaches are likely to be more accessible.

During determination, more data may be needed to support the chosen process. At this stage, investment in data collection (such as stock assessments and fishing surveys) may be made in collaboration with sectors.

### **3.6 Make the resource sharing arrangement**

Each resource sharing arrangement will be specific to the type of fishery, the resource sharing issue in question and the management goals of each sector (see [section 3.3](#)). However, each resource sharing arrangement must identify:

- how the resource will be shared
- how the arrangement will be managed, including compliance and monitoring
- how any costs arising from its implementation and ongoing management will be met.

The arrangement must also specify what was considered in determining how the resource will be shared and how the decision was made.



### 3.6.1 How the resource will be shared

The arrangement must include details about the way the resource will be shared. This could include these approaches:

- allocation of the RBC of a particular stock between sectors
- spatial or temporal arrangements (such as area or seasonal closures or exclusive areas)
- changes to the fishery's harvest strategy – any changes must be made under the [Commonwealth Fisheries Harvest Strategy Policy](#) (Agriculture 2018b).

Where multiple sectors are sharing the take of a specific stock, an allocation of the RBC to the different sectors may be appropriate. A spatial or temporal arrangement may be more appropriate where sectors are seeking to reduce their interactions on the water or the impact of fishing on the non-fishing interests of another sector (such as cultural impacts).

The Commonwealth may need to consider the implications for other arrangements in place for the fishery. For example, the fishery's harvest strategy and any approvals in place under the *Environment Protection and Biodiversity Conservation Act 1999*.

Where a stock is shared between Commonwealth and state or territory commercial fishers, the Commonwealth will seek common objectives and consistent harvest strategies to enable agreement on an RBC and apportionment.

### 3.6.2 How the arrangement will be managed

Where fish stocks are shared, relevant governments must work together to make sure catches are managed sustainably. The arrangement must specify how this will occur. The exact management regime is likely to depend on cost-effectiveness, practicality and the existing management regimes of the relevant state or territory governments. Arrangements should include details about how the effectiveness of the arrangement will be monitored and evaluated over time. Arrangements may also include steps to be taken if the arrangement is not effective.

Where stocks are shared between Commonwealth and state or territory commercial fishers, the Commonwealth will seek for the stock to be managed by one jurisdiction. Where single jurisdiction management is not cost-effective or practical, the Commonwealth may advocate for the use of output controls in resource sharing arrangements as the most certain method of sustainably managing the commercial fishery. This is likely to help future adjustment.

Arrangements between the Commonwealth and state or territory governments may require amendments to OCS arrangements.

### 3.6.3 Recording the resource sharing arrangement

Once the arrangement has been finalised, the terms of the arrangement should be reflected in each government's respective fisheries management instruments. To ensure Commonwealth fisheries management is transparent and accountable, resource sharing arrangements made under the framework will be publicly available.

The nature of the arrangement will vary, depending on the fishery in question, and will determine exactly where and how it is recorded. For example, formal sectoral catch allocations might be underpinned by a memorandum of understanding between the relevant governments,

amendment of a management plan or a change to OCS arrangements. Arrangements such as spatial or temporal closures may be recorded by AFMA in a fisheries management strategy.

The nature of the arrangement will also determine the level of sign-off. In many cases, these arrangements will require ministerial agreement.

## 4 Implementation

### 4.1 Managing the resource sharing arrangement

If allocations have been set, the Commonwealth will work collaboratively with other state and territory governments and non-commercial sectors, as required, to ensure that the:

- sectors remain within their allocations under the resource sharing arrangement
- management goals of the arrangement are met.

This is necessary to help ensure that management is sustainable and consistent with international obligations, where applicable. It also aims to ensure that sectors do not encroach on the access arrangements of others.

Each sector will require a management system to make sure it does not catch more than its total allowable catch. A range of management controls and emerging technologies may be available (for example, for monitoring catch). The cost and resource intensity of management will depend on factors such as the economic value and sustainability of the fishery and existing management arrangements. Ultimately, determining the most appropriate management controls will be the responsibility of the jurisdiction responsible for managing the sector in question.

### 4.2 Compensation

Where fisheries management decisions are taken to ensure the ongoing sustainability of fisheries resources and/or protection of the marine environment (for example, where catch from all sectors needs to be reduced), compensation will not be provided. Compensation will not be provided in cases where a fishery right (established under the FM Act) is cancelled, ceases to have effect or ceases to apply to a fishery. Adjustment assistance, including financial compensation, will be unlikely where:

- resource sharing arrangements simply formalise existing 'catch shares' of sectors
- management arrangements allow for autonomous market-based adjustments between sectors.

The Commonwealth may consider compensation in cases where access to fisheries resources or catch allocation shares are redistributed to the detriment of a sector. This will be subject to legislative authority. Compensation will be considered case-by-case and may be non-monetary in nature. Assistance measures will be developed in consultation with all relevant sectors and consistent with relevant provisions of the FM Act and government policy.

The government will also consider who might contribute to any such adjustment assistance measures – which may or may not include direct financial compensation – and how they might be funded.

## 5 Reviewing a resource sharing arrangement

One of the principles of this framework is for resource sharing arrangements to give users of fisheries resources certainty about their access. Therefore, reviewing resource sharing arrangements or reallocating fisheries resources is expected to be relatively rare. However, several factors may trigger a review of a resource sharing arrangement, including:

- a change to the relative importance of a stock to a particular sector
- a determination by the Commonwealth that an alternative sharing arrangement would provide greater economic benefits
- area closures in Commonwealth fisheries
- sustainability concerns
- changes in distribution of a stock due to environmental changes.

Where one sector seeks a greater share of the resource, that sector may need to contribute to the cost of reviewing the arrangement and any resulting adjustment. How that contribution might be funded or facilitated would vary between fisheries and jurisdictions.

When a decision is made to review a resource sharing arrangement, the Commonwealth will follow the process set out in [Chapter 3](#). Before amending a resource sharing arrangement, there must be clear evidence of the benefits to the community from reallocation. This means that the benefits to one sector from transferring allocation to them should exceed the losses to the other sectors. The arrangement should not be amended if this cannot be demonstrated.

# Glossary

Term	Definition
access	The ability or right of each sector to use the resource. In Australia, fishing access rights for commercial fishers are generally defined in the form of licences, permits or statutory fishing rights. In contrast, other user groups (recreational and Indigenous fishers) are generally not limited in their access to a fishery (although may have licence fees and restrictions on catch such as bag limits) and do not have rights that are exclusive or tradeable.
Australian Fisheries Management Authority (AFMA)	AFMA is an independent statutory body with obligations imposed on it under the <i>Fisheries Management Act 1991</i> and <i>Fisheries Administration Act 1991</i> . It is given functions and powers under those Acts. AFMA has responsibility for managing Commonwealth fisheries on behalf of the Commonwealth.
allocation	How much of the resource is available to each sector. This includes the process of determining allocations and the unit of allocation (for example, a percentage of total catch). Allocations may be in the form of quota; bag, boat or trip limits; area or time restrictions; or other effort limits.
commercial fishing	Fishing undertaken for the purposes of trade or business (includes broodstock collection for aquaculture purposes).
Commonwealth Fisheries Harvest Strategy Policy	The policy that establishes the requirement for the development of harvest strategies in Commonwealth-managed fisheries.
Commonwealth waters	Generally, waters from 3 nautical miles to 200 nautical miles from the Australian coast.
ecologically sustainable development (ESD)	Using, conserving and enhancing the community's resources so that the ecological processes on which life depends are maintained, and the total quality of life can be increased, now and in the future. Under the <i>Fisheries Management Act 1991</i> , AFMA must manage Commonwealth fisheries in line with ESD principles: <ul style="list-style-type: none"> <li>• Decision-making processes should effectively integrate both long-term and short-term economic, environmental, social and equity considerations.</li> <li>• If there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.</li> <li>• The principle of inter-generational equity – the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations.</li> <li>• The conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making.</li> <li>• Improved valuation, pricing and incentive mechanisms should be promoted.</li> </ul>
exclusive economic zone	The area that extends from the limit of the territorial sea – which is 12 nautical miles offshore from the territorial sea baseline – to a maximum of 200 nautical miles, measured from the territorial sea baseline. The EEZ may be less than 200 nautical miles if it overlaps with an area of sea within 200 nautical miles of another country's territorial sea baseline. Australia has sovereign rights and responsibilities over the water column and the seabed, including the exploration and exploitation of natural resources.
<i>Fisheries Management Act 1991</i> (FM Act)	The FM Act is the lead legislation in Commonwealth fisheries management. The legislation underpins management of Commonwealth fisheries and gives functions and powers to the Australian Fisheries Management Authority to manage Commonwealth fisheries.
fisheries resources	Stocks of target and non-target fishing species, and their associated environment.
Indigenous customary fishing or Indigenous fishing	Indigenous fishing has many different meanings depending on the purpose or context of the fishing activity.

## Commonwealth fisheries resource sharing framework

Term	Definition
	<p>Indigenous customary fishing can be defined as fishing in accordance with relevant Aboriginal or Torres Strait Islander laws and customs for the purpose of satisfying personal, domestic or non-commercial communal needs.</p> <p>However, Aboriginal and Torres Strait Islander peoples also engage in recreational and commercial fishing in accordance with relevant legislative and regulatory requirements for these activities.</p>
minister	The Commonwealth minister responsible for administration of the <i>Fisheries Management Act 1991</i> – currently the Assistant Minister for Forestry and Fisheries.
net economic returns	The difference between total revenue from the fishery and the total economic cost of fishing.
Offshore Constitutional Settlement (OCS)	The Offshore Constitutional Settlement sets out arrangements between the different Australian jurisdictions regarding responsibilities for fisheries, mining, shipping and marine reserves.
recommended biological catch (RBC)	An output from certain harvest control rules. Provides an estimate of the total fishing mortality (landings from all sectors plus discards) recommended to achieve a predefined target. Distinct from total allowable catch.
recreational fishing	Fishing for a purpose other than trade or business, where the catch is released, used for personal consumption or taken for sport.
resource sharing	Access to, and allocation of, fisheries resources (for example, fish stocks and fishing areas) between different fishing sectors or associated beneficiaries.
sector	<p>Unless specified otherwise, refers to these fishing user groups:</p> <ul style="list-style-type: none"> <li>• commercial (state or territory and Commonwealth)</li> <li>• recreational</li> <li>• Indigenous fishers.</li> </ul>
statutory fishing rights	<p>Refers to:</p> <ul style="list-style-type: none"> <li>• the right to take a particular quantity of fish of a particular species from a particular area</li> <li>• the right to use a certain type of fishing equipment and/or boat</li> <li>• any other type of right in respect to a Commonwealth-managed fishery as defined under the <i>Fisheries Management Act 1991</i>.</li> </ul>
total allowable catch (TAC)	The annual catch limit set for a stock, species or species group. Used to control fishing mortality within a fishery.

# References

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