



# National Native Title Tribunal

Welcome to the first edition of the National Native Title Tribunal's Indigenous fishing bulletin for 2005.

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## National Indigenous Fishing Technical Working Group (NIFTWG) update

On 22 December 2004 a media statement was put out by the Tribunal on behalf of the National Indigenous Fishing Technical Working Group (NIFTWG) announcing the Principles Communiqué on Indigenous fisheries.

The technical working group, comprised of experts from the seafood industries, recreational fishing, indigenous fishing, native title, and state and federal government natural resource managers, was established following a resolution passed by more than 70 Indigenous delegates in October 2003 at the Indigenous Fishing Rights conference. The resolution, which was further endorsed by the full conference plenary, says that local, regional, state and national structures need to be established to coordinate indigenous fishing strategies.

Working with the authority of their respective organisations, the NIFTWG representatives developed the principles, which are intended to guide policy and strategy in relation to Indigenous fishing-related issues.

**Media statement:** 'Fishing Principles to guide Indigenous involvement in marine management' (22/12/2004): [http://www.nntt.gov.au/media/1103707378\\_2284.html](http://www.nntt.gov.au/media/1103707378_2284.html)

Tribunal Member and NIFTWG co-chair John Catlin was cited in an ABC online report and subsequent ABC radio reports as saying that there needs to be greater recognition of Indigenous rights such as customary fishing and the allocation of marine resources.

**ABC Message Stick online:** 'Native Title Tribunal welcomes new fishing principles' (23/12/ 2004) [http://www.abc.net.au/message/news/stories/ms\\_news\\_1271192.htm](http://www.abc.net.au/message/news/stories/ms_news_1271192.htm)

The Principles were also reported on in the *Koori Mail* ('National fishing guides adopted,' 12/1/2005) and the *Torres News* ('Guide to involvement in marine management,' 5/1/2005) and also on SBS World News online ('Fishing rights recognised': <http://www9.sbs.com.au/theworldnews/region.php?id=101738&region=7>)

For the principles to have effect they must be adopted by relevant fisheries jurisdictions at the federal, state and territory level. To this end, the adoption of the principles is being progressed through national bodies responsible for fisheries and natural resource management across Australia.

Fisheries agencies brought their positions on the principles to a meeting on March 11 of the Natural Resource Management Standing Committee, which reports to the Natural Resource Management Ministerial Council. Endorsement from these forums will ensure high-level support for the national principles from governments.

The Tribunal's current involvement in the NIFTWG process is to continue to assist, as appropriate, with the development of state/territory Indigenous fishing strategies which have bearing on the resolution of native title claims. In line with the resolution passed at the June 2004 meeting of NIFTWG, the Tribunal will also consult NIFTWG members about reconvening the working group no later than October 2005.

For background information about NIFTWG, go to the 'Current Projects' section of the National Native Title Tribunal's website: <http://www.nntt.gov.au/media/Projects.html>

### Correction

In the last edition of the fishing bulletin it was incorrectly stated that Professor Stuart Kaye was commissioned by the National Native Title Tribunal to provide an analysis of legal issues that arise in the Torres Strait sea claim. It was in fact the James Cook University Native Title Studies Centre that commissioned Professor Kaye to undertake the research, not the Tribunal. The Native Title Studies Centre is funded by Tribunal and the Queensland State Government.

## Indigenous fishing in the news

### December 2004

#### **Qld: Torres Strait Islanders seek greater involvement in commercial fishing**

*The Australian* (6/12/2004) reports that Torres Strait Islander communities, through the Torres Strait Regional Authority, will use the settlement of native title over five islanders as a platform for another claim seeking an involvement in commercial fishing in their waters. TSRA native title portfolio member Mr Donald Banu said community members would seek to negotiate further claims over the water surrounding their land. 'We want to be part of the decision-making process in regard to our sea country,' Mr Banu said. 'At the moment we want to lodge it as a blanket claim over the region and I guess we would be seeking the recognition over our sea country after the land native title claims.' Queensland Seafood Industry Association chief executive officer Mr Duncan Souter said that commercial fishermen already worked closely with the Torres Strait Regional Authority. 'Our position is that courts have found that native title must be subject to the laws of the land, which enshrines commercial fishing rights,' Mr Souter said. 'It can't be for exclusive rights over fisheries resources.'

**Source:** Islanders lay claim to waters, 6 December 2004, *The Australian*, p. 4.

#### **WA: Traditional owners oppose restrictions**

The *Kimberley Times* (16/12/2004) and the *Koori Mail* (15/12/2004) report that traditional owners from across the Kimberley expressed opposition to proposals to restrict the traditional hunting of dugong at a recent meeting of the Kimberley Land Councils' Bungarun executive committee. 'Aboriginal people have been managing our natural resources for thousands of years, and dugong are a big part of our cultural identity,' said senior Bardi man and KLC deputy chair Frank Davey. 'Instead of banning our traditional practices, we want to take a leading role in caring for dugong. Traditional owners are actively involved in a dugong and turtle management project for northern Australia. It is in our interests to protect our culture and our environment.'

#### **Qld: Dugong and turtle hunting to be restricted**

ABC Online (23/12/2004) reports that the hunting of turtle and dugong will be restricted to four months of the year under Queensland's first traditional hunting agreement. Queensland Parks and Wildlife and the Angamothimaree people have signed the agreement to protect marine resources in the Pine River near Weipa. The agreement introduces a permit system controlled by traditional owners which allows the catch of one male dugong per permit during the months of December through to March. Three other Queensland communities have also expressed interest in following the lead set by the Angamothimaree.

**Source:** [http://abc.net.au/message/news/stories/ms\\_news\\_1270955.htm](http://abc.net.au/message/news/stories/ms_news_1270955.htm)

#### **Qld: Fisherman battles legal net**

The *Courier Mail* (28/12/2004) reports on a landmark District Court decision handed down last month in Queensland that considered a traditional fisherman's use of commercial nets. In mid-December, the District Court ruled that Mr Riccardo Yasso was found to have been in unlawful possession of a 'commercial apparatus' in March 2003 when he was caught on the Fitzroy River in Central Queensland with a 50 metre long net and a 25 kilogram haul of fish. Mr Yasso, who is of Aboriginal and South Sea Islander descent, claimed he was exercising his traditional rights to fish and that the catch would be distributed among his extended family. District Court Judge Grant Britton ruled that there was no evidence that nets had ever been used in the region prior to European settlement. Mr Yasso will be sentenced next month, at which time he will most likely launch an appeal.

**Source:** Indigenous angler to fight net ruling:

[http://www.news.com.au/common/story\\_page/0,4057,11787334%255E1248,00.html](http://www.news.com.au/common/story_page/0,4057,11787334%255E1248,00.html)

## January 2005

### **Qld: Government funds fishing net count**

ABC News Online (13/1/2005) reports that the World Wide Fund for Nature will work with Indigenous groups in northern Australia to collect nets and debris from the Gulf of Carpentaria. The \$2 million project is being funded by the Federal Government and aims to catalogue the number of fishing nets washed up on Top End beaches.

**Source:** <http://www.abc.net.au/news/newsitems/200501/s1281267.htm>

### **Qld: Animal cruelty charges defended**

The *News-Mail* in Bundaberg (20/1/2005) reports on a court case involving two Aboriginal men that have been charged with cruelty to a dugong after witnesses at Woodgate Beach on 8 July last year allegedly saw the men haul a dugong ashore, eat a chunk of its flesh raw while the creature was still alive and then take it back out to sea to drown. Accused men Bruce Little and Dale Leslie Brown appeared at a summary hearing at the Bundaberg Magistrates Court to defend animal cruelty charges brought against them by the RSPCA. Mr Little has said on a previous occasion that traditional hunting of dugongs was tied to native title.

**Source:** Men defend alleged cruel dugong killing, 20 January 2005. *News-Mail* (Bundaberg), p. 2.

## February 2005

### **Qld: Magistrate dismisses dugong cruelty charges**

Magistrate Barry Barrett has struck out charges brought against two Aboriginal men accused of inflicting cruelty on a dugong near Woodgate Beach last year, south of Bundaberg in Queensland. ABC Online (10/2/2005) reports that the accused men, Dale Lesley Brown and Bruce Little, were charged under the Animal Care and Protection Act with cruelty. While the RSPCA alleged the men were in a group that hunted the dugong, the accused men said the dugong was harpooned and drowned in the traditional way and was dead when it was brought to shore. Magistrate Barry Barrett struck out the charges, saying the RSPCA had not proved beyond reasonable doubt that the men had committed an act of cruelty.

**Source:** [http://www.abcnews.net.au/message/news/stories/ms\\_news\\_1300260.htm](http://www.abcnews.net.au/message/news/stories/ms_news_1300260.htm)

### **Northern Australia: Indigenous communities conserve sea life through NAILSMA**

The Federal Government has allocated \$3.8 million over the next three years towards the conservation of dugongs and turtles. A number of northern Australian Indigenous communities, through the North Australia Indigenous Land and Sea Management Alliance (NAILSMA), are working together to develop conservation management plans for dugongs and turtles. Some Indigenous communities are already involved in collecting discarded fishing nets that dugongs and turtles become trapped in. NAILSMA chairman Gearhardt Pearson says the plan is to extend these types of initiatives across northern Australia.

**Source:** <http://www.abc.net.au/news/newsitems/200502/s1301326.htm>

### **Qld: TSRA chair welcomes dugong management plan funding**

The Torres Strait Regional Authority (TSRA) has welcomed the Australian Government's commitment to source funding for Torres Strait's dugong and marine turtle management, announced at last month's

Protected Zone Authority meeting held on Thursday Island. TSRA chairman Toshie Kris said he was pleased the authorities' calls for funding to support a Torres Strait traditional catch monitoring program had been recognised by the Federal Fisheries Minister Ian Macdonald. 'Of course we are pleased to have the Australian Government's support toward this initiative and we hope that the \$1.3 million to implement the program can be sourced, otherwise our ability to complete community-based management plans will be severely compromised,' he said. 'I am pleased both the Australian and Queensland ministers for fisheries understand the importance of a community-driven management plan— after all, we are talking not only about the conservation of a species, but the preservation of an entire culture.'

**Source:** Dugong plan welcomed, 23 February 2005, *Koori Mail*, p. 19.

## March 2005

### **Qld: Indigenous communities back 'ghost nets' clean-up**

ABC Online (9/3/2005) reports that nine Aboriginal communities have joined the campaign to clean up abandoned fishing nets in the Gulf of Carpentaria in far north Queensland. The coordinator of the 'ghost nets' campaign says four non-government organisations have also agreed to help remove the nets that threaten sea life.

**Source:** <http://www.abc.net.au/news/newsitems/200503/s1317328.htm>

### **Qld: Traditional dugong and turtle harvesting may be limited**

The *Cairns Post* (15/3/2005) has reported on the key recommendations of the intergovernmental draft report— *Sustainable and Legal Indigenous Harvest of Marine Turtles and Dugongs in Australia*— saying that Aboriginal people and Torres Strait Islanders may have their traditional hunting rights curtailed because of fears that dugong and turtle harvesting is occurring at unsustainable levels. Compiled by the Marine and Coastal Committee Taskforce on Turtle and Dugong Populations, the reports seeks to ensure that all traditional harvest of marine turtles and dugongs in Australia is sustainable and legal.

**Source:** Traditional hunters face catch limits, 15/3/2005. *Cairns Post*, p. 11.

### **National: RSPCA concerned about rate of dugong and turtle harvesting**

ABC news online (15/3/2005) reports comments by Byron Hall from the RSPCA who said he is concerned at the rate of harvesting of turtles and dugongs by Indigenous people. 'There are reports that I've heard about in the last few months that there's thousands of turtles and dugong being taken in the Torres Strait each year,' he said. 'At that sort of rate, looking at the reproductive rate of dugongs at that sort of rate, then it won't take very long for them to be wiped out completely.'

**Source:** <http://www.abc.net.au/news/newsitems/200503/s1323362.htm>

### **NSW: Wild resources may boost living standards**

The Australian National University's (ANU) Centre for Aboriginal Economic Policy Research has put a dollar figure on the value to Indigenous populations of harvesting wild resources, calculating the value at 5 per cent of income or \$500 per person. The study looked at the value of natural resources such as fish to the communities living in the Wallis Lake catchment in the Forster area of New South Wales. Report author Dr Matthew Gray said the resources contributed significantly to the livelihoods of the people. Dr Gray says the communities hunt and gather for cultural reasons and as a source of food, rather than for recreational purposes. 'They had concerns that tourists often didn't harvest the fish or didn't fish in a sustainable way,' he said. 'They felt that their use of resources was sustainable as was many of the non-Indigenous people living in the area but they had concerns about the tourists.'

**Source:** <http://www.abc.net.au/news/items/200503/1323626.htm?farnorth>

## Issues in brief

### **Call for public comment on dugong and turtle harvesting**

Environment and Heritage Minister Senator Ian Campbell and Fisheries and Conservation Minister Senator Ian Macdonald have invited public comment on a draft document aimed at ensuring that all traditional harvest of marine turtles and dugongs in Australia is sustainable and legal. The draft report, *Sustainable and Legal Indigenous Harvest of Marine Turtles and Dugongs in Australia - A National*

*Approach*, compiled by the Marine and Coastal Committee Taskforce on Turtle and Dugong Populations, canvasses a range of actions that governments, communities and individuals can take to ensure that traditional use is sustainable and consistent with the law.

'The Government recognises that in some areas, sustainable and legal harvesting of dugongs and turtles is an important part of local Indigenous culture,' Senator Campbell said in a statement issued on 11 March. 'However, given that dugong and turtles migrate across northern Australia, and face a range of threats including ghost nets and feral animals, we need to establish if there are areas where harvesting is occurring at unsustainable levels.'

Comments on the draft National Approach must be received by COB Friday 13 May 2005, and should be sent to:

Migratory and Marine Species Section  
Department of the Environment and Heritage  
GPO Box 787  
CANBERRA ACT 2600

The draft report, *Sustainable and Legal Indigenous Harvest of Marine Turtles and Dugongs in Australia - A National Approach*, is available on the Department of the Environment and Heritage website at: <http://www.deh.gov.au/coasts/species/turtles/national-approach.html>

### **Community funded to study the impacts of commercial fishing around Miwatj region, NT**

The Numbulwar Homelands Council Association Inc has been granted funding for a small project under The National Heritage Trust's Envirofund which will look at managing the impacts of commercial fishing around Numbulwar in the Miwatj region of the Northern Territory. The project will allow the traditional owners of the western Gulf of Carpentaria to develop a more active involvement in the management of resources on their traditional estates. It will also educate commercial fishermen about the cultural significance of sacred sites and provide negotiation and monitoring of access and operations through voluntary agreements, and will help to reduce overall fishing in these areas. There will also be funding for the removal of marine debris over 200km of coastline.

The Envirofund is the local action component of the Australian Government's Natural Heritage Trust, which helps communities undertake local projects aimed at conserving biodiversity and promoting sustainable resource use. The next call for applications to the Envirofund is expected later in 2005.

For more information about the Envirofund see the NHT website: <http://www.nht.gov.au/envirofund/>

### **First international marine protected areas congress to be held in October**

In 1988, The World Conservation Union (IUCN) General Assembly called upon national governments, international agencies and the non-governmental community to protect biodiversity and marine habitats, and help to ensure that marine resources are used in a sustainable manner. Marine protected areas, or MPAs, have a critical role to play in the conservation and protection of marine life and their habitats. The Department of Environment and Heritage defines a marine protected area (MPA) as an area of sea especially dedicated to the protection and maintenance of biodiversity, and of natural and associated cultural resources, and managed through legal or other effective means.

The inaugural international marine protected areas congress to be held in Geelong, Victoria, from 23– 27 October this year will address the World Commission on Protected Areas' Marine goal and primary themes. A major objective of the international marine protected areas congress is to develop a blueprint for partnerships between MPA managers, fisheries managers, management agencies, Indigenous peoples, local communities and industries reliant on marine resources to ensure that marine ecosystems are sustained into the future;

For more information about the conference objectives and registration details, go to: <http://www.impacongress.org/>

### **Sharing the Fish Conference, Fremantle 2006**

The concept of fisheries allocation issues is one of increasing national and international interest to those involved in fisheries management. The Western Australian Department of Fisheries (DoF), in conjunction with the Department of Agriculture, Fisheries and Forestry (DAFF) and Ministry of Fisheries (New Zealand), will present the *Sharing the Fish – Allocation Issues in Fisheries Management* to be held at the Esplanade Hotel, Fremantle from 27 February – 2 March 2006.

The conference will examine how fisheries managers and policy makers go about considering, undertaking and implementing the allocation of fish resources to ensure their sustainability. The breadth of these issues will be considered at the stakeholder, local, national, international and regional level.

Abstracts are now being invited for oral and poster display at the Sharing the Fish conference. It is proposed that the conference will have three main themes (one for each day):

- International allocation issues – incorporating high seas allocation and sustainability;
- Cross-jurisdictional allocation issues – both within and between nation states; and
- Cross-sectoral allocation issues – relating to recreational, Indigenous and artisanal fisheries.

Go to the official conference website for further information: <http://www.fishallocation.com/>

### **Indigenous fishing and hunting rights: how far have things progressed?**

SBS TV's *Living Black* program broadcast on Saturday 22 January focused on how far Indigenous Australians have progressed to have their fishing and hunting rights recognised, as well as certain native title rights.

The opening segment looked at the situation with Indigenous fishermen on the south coast of the New South Wales and the landmark Indigenous fishing rights case that is going through the courts at Narooma. The reporter interviews Aboriginal men Ron Mason and Andrew Nye, who have fished in the waters around Narooma all their lives and hold concerns about the survival of their traditional customary fishing practices.

Following on from this segment, there is a feature interview with Tasmanian ATSIC Commissioner Rodney Dillon, who talks about the situation for traditional fishing rights for Indigenous people Australia-wide. When asked what changes need to happen with traditional fishing and the Fisheries Act for Indigenous people in each state, Rod Dillon said that he advocated a national fishing strategy.

'I think that there needs to be a national strategy where we've all got the same rights throughout Australia on rights to fish, and I think that there's two parts that need to be done: that there needs to be a traditional fishing right plus we need to have a commercial fishing right as well, and have the two side-by-side but working together.'

Commissioner Dillon goes on to say that, in enacting inflexible fisheries management and licensing regimes, governments of today are destroying the culture and way of life that Aboriginal and Torres Strait Islander people have practiced for thousands of years.

'Under the native title rules, if you don't keep practicing your culture – if you neglect your culture– they can take your native title right off you, but if you do do it they'll jail you. And it's a way of doing away with our right to practice our culture.'

### **Swedish Inquiry looks at Canadian Aboriginal hunting and fishing rights**

Foreign Affairs Canada reports that a Swedish delegation to Canada has found that, while there are great differences between Sweden and Canada, there are many similarities in the issues surrounding the hunting and fishing rights of their Indigenous peoples.

The Swedish delegation travelled to Canada on a study tour late last year as part of an inquiry established by the Swedish Government in April 2003 into on hunting and fishing in the traditional Sami homeland in Sweden. The Sami are Indigenous people who form an ethnic minority in Norway, Sweden and Finland. There is also small Sami population on Russia's Kola Peninsula.

It is reported that the fundamental issue for the inquiry is to clarify who holds the hunting and fishing rights in the traditional Sami homeland in the northern part of Sweden— an area that covers about a third of the country's landmass. The issue of Sami hunting and fishing rights has become highly controversial in recent times due to competing interests in land and water.

The view of the majority of Sami people is that they hold sole hunting and fishing rights in parts of the area and that if hunting and fishing rights are to be granted to others, it should be the Sami who do so. There are also divergent views among the Sami, however, as most of the Sami who practise reindeer husbandry see hunting and fishing rights as being linked to reindeer husbandry rights, while some of the Sami who are not active in reindeer husbandry consider that hunting and fishing rights do not recognise this linkage.

For further information see the Foreign Affairs Canada website:

[http://www.dfait-maeci.gc.ca/aboriginalplanet/archives/january2005/art7\\_main-en.asp](http://www.dfait-maeci.gc.ca/aboriginalplanet/archives/january2005/art7_main-en.asp)