



Review of literature about Aboriginal rights, use, management and interests in northern Australian marine environments

Living on Saltwater Country

Review of literature about Aboriginal rights, use, management and interests in northern Australian marine environments



Healthy oceans: cared for, understood and used wisely for the benefit of all, now and in the future. Healthy oceans: cared for, understood and used wisely for the benefit of all,



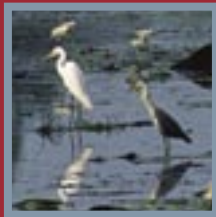
NATIONAL OCEANS OFFICE



National Oceans Office
Level 1, 80 Elizabeth St, Hobart
GPO Box 2139, Hobart, TAS, Australia 7001
Tel: +61 3 6221 5000 Fax: +61 3 6221 5050

www.oceans.gov.au

The National Oceans Office is an Executive Agency of the Australian Government



TITLE:

Living on Saltwater Country. Review of literature about Aboriginal rights, use, management and interests in northern Australian marine environments.

COPYRIGHT:

© National Oceans Office 2004

DISCLAIMERS:

General

This paper is not intended to be used or relied upon for any purpose other than to inform the management of marine resources. The Traditional Owners and native title holders of the regions discussed in this report have not had the opportunity for comment on this document and it is not intended to have any bearing on their individual or group rights, but rather to provide an overview of the use and management of marine resources in the Northern Planning Area for the Northern regional marine planning process.

Scope of report

In the compilation of this report the contracted authors and representative bodies involved have sought to exclude documents covering sensitive legal or cultural material or material otherwise not deemed available for public consumption. Inevitably this means that a section of the existing literature relating to sea country interests is not available to this report. While this has presented limitations every effort has been made to ensure that the key themes and issues relevant to Aboriginal people in the Northern Planning Area are nevertheless identified and addressed appropriately. Noting the above qualification the report utilises references relevant to the Northern Planning Area under Oceans Policy.

Balkanu Cape York Development Corporation disclaimer and copyright

The information and views presented in Part B of this literature review reflect the best efforts of the consultant and the Balkanu Cape York Development Corporation. The review has not been thoroughly examined by traditional owners concerned nor the Cape York Land Council. As such any views expressed in relation to land and sea ownership and/or Aboriginal rights and interests are not officially endorsed legal views and should not be regarded as such.

Copyright and intellectual property for Part B (Northern and Western Cape York Peninsula) of this document is shared by Jim Monaghan and Balkanu Cape York Development Corporation. Where Part B of this document is used or quoted this ownership should be acknowledged

National Oceans Office disclaimer

This report was prepared by NAJLSMA as an input to the scoping phase of the Northern regional marine planning process. Section B covering the Northern and Western parts of Cape York was prepared by Mr Jim Monaghan for the Balkanu Cape York Development Corporation. All other sections were prepared by Dr Dermot Smyth for the Northern Land Council in consultation with Carpentaria Land Council and Anindilyakwa Land Council. The views expressed in this report are not necessarily those of the Australian Government. The Australian Government does not accept responsibility for the contents of this report.

SOURCING:

Copies of this report are available from:
The National Oceans Office
Level 1, 80 Elizabeth Street, Hobart
GPO Box 2139
Hobart TAS 7001
Tel: +61 3 6221 5000
Fax: +61 3 6221 5050
www.oceans.gov.au

For further information about this report, contact the Public Affairs Officer.

REPRODUCTION:

Information in this report may be reproduced in whole or in part for study or training purposes, subject to the inclusion of acknowledgement of the source and provided no commercial usage or sale of the material occurs. Reproduction for purposes other than those given above requires written permission from the National Oceans Office. Requests for permission should be addressed to the Public Affairs Officer, National Oceans Office, GPO Box 2139, Hobart TAS 7001.

CREDITS:

Design: e.g. design (www.egdesign.com.au)
Printing: PML (www.pml.com.au)
Photos: Kerry Trapnell

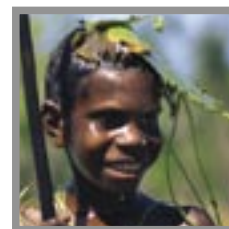
Published by the National Oceans Office

STATE LIBRARY REF:

Living on Saltwater Country. Review of literature about Aboriginal rights, use, management and interests in northern Australian marine environments.

ISBN 1-877043-40-0





FOREWORD

The Living on Saltwater Country document forms part of the outcomes of the scoping phase for the Northern regional marine planning process. Its aim is to provide an overview of the key elements and themes emerging from the literature relevant to this area in the context of contemporary marine management and resource use.

The document was commissioned by the National Oceans Office and carried out by consultants with advice, collaboration and input from the Northern Land Council, the Balkanu Cape York Development Corporation and the Carpentaria Land Council under the auspices of the North Australian Indigenous Land and Sea Management Alliance (NAILSMA).

Living on Saltwater Country summarises the main sources of publicly available written information about Aboriginal associations with, rights to, responsibility for, use of, and management of marine environments in the Northern Planning Area. Most of the information has been sourced from books, journals, conference proceedings, workshop transcripts and land and sea claim hearings. Some use has also been made of unpublished material, with permission of the appropriate sources. No culturally sensitive or restricted information has been used or referred to in this report.

The information contained in this report will inform the development of a regional marine plan for the Northern Planning Area.

STRUCTURE OF THE REPORT

This literature review has been prepared in the following sections.

Part A covers the Northern Territory and Southern Gulf of Carpentaria regions of the Northern Planning Area. This part of the report was overseen and facilitated by the Northern Land Council and Carpentaria Land Council. Part A was prepared by Dr Dermot Smyth who has a background in natural resource management with a focus on indigenous use and management of marine and coastal resources.

Part B covers the western Cape York and the Kaurareg Aboriginal sea country in far northern Cape York and southern Torres Strait. This part of the report was overseen and facilitated by Balkanu Cape York Development Corporation and the Cape York Land Council. Part B was prepared by Mr Jim Monaghan who is a geographer specialising in the use of natural and cultural space and has many years experience working in both the Kowanyama and Pormpuraaw areas.

Part C draws together the key themes emerging from across the region and summarises documented accounts of Indigenous concerns about current marine environmental and resource management, and Indigenous needs and aspirations for the future use and management of sea country. This section was prepared by Dr Dermot Smyth in discussion with Northern Australian Indigenous Land and Sea Management Alliance (NAILSMA) partners.

Part D summarises the main conclusions emerging from Part A, Part B and Part C and sets out some of the policy challenges and options resulting from consideration of these themes. This section was prepared by Dr Dermot Smyth in discussion with NAILSMA partners.

We believe that this review presents a picture that amounts to more than the sum of its parts and provides a powerful argument for a fresh approach to engagement of Aboriginal people in the planning and management of saltwater country in the Northern Planning Region.

We acknowledge the traditional owners of this vast area and would like to thank the primary authors for their dedication to the task.

*North Australian Indigenous Land and
Sea Management Alliance
June 2004*



CONTENTS

PART A: Review of literature about Aboriginal rights, use, management and interests in northern Australian marine environments – Northern Territory and Southern Gulf of Carpentaria – prepared by Dermot Smyth	5
Section 1 – Introduction	8
Section 2 – Understanding Sea Country	12
Section 3 – Saltwater People	24
Section 4 – Claiming Sea Country.....	35
Section 5 – Using Sea Country	48
Section 6 – Managing Sea Country.....	64
PART B: Review of literature about Aboriginal rights, use, management and interests in northern Australian marine environments – western and northern Cape York Peninsula – prepared by Jim Monaghan	77
Section 1 – Introduction	81
Section 2 – Understanding Sea Country in western and northern Cape York	86
Section 3 – Saltwater people in western and northern Cape York	96
Section 4 – Claiming Sea Country in western and northern Cape York	106
Section 5 – Using Sea Country in western and northern Cape York	115
Section 6 – Managing Sea Country in western and northern Cape York.....	122
PART C: Key Themes Emerging across the Region – prepared by Dr. Dermot Smyth	129
Section 1 – Concerns and Aspirations for Sea Country	131
Section 2 – Australian Government Initiatives	138
PART D: Conclusions and Policy Challenges – prepared by Dr. Dermot Smyth	165
References	173



*We live on the sea, dugong, turtle, fish.
That's always been the way. We have to
look after that sea to make sure we can
still survive and can feed our families.*

Lardil Traditional Owner in the Wellesley Islands

*This water is saltwater ... and in that
water lies our sacred law.*

Yolngu Traditional Owner, north-east Arnhem Land



Part A: Living on Saltwater Country

Review of literature about
Aboriginal rights, use,
management and interests in
northern Australian marine
environments

By Dermot Smyth
Smyth and Bahrtdt Consultants

A report for the
North Australian Indigenous Land and
Sea Management Alliance

ACKNOWLEDGEMENTS

I would like to sincerely thank Patrick O'Leary, Saltwater Policy Officer of the Northern Land Council (NLC), for his patient and thoughtful supervision of this project, and for his advice and comments on the various drafts of this report. I would also like to acknowledge and thank the following NLC staff who kindly provided information, advice, references and technical assistance: Paul Josif, Peter Pender, Peter Cooke, Janet Cubillo, Wendy Asche, Geoff Bagshaw, Belinda Oliver and Ron Levy.

My thanks also go to Kelly Gardner and Pauline Fietz of the Carpentaria Land Council, who provided much valuable information, advice and hospitality during my visit to Burketown. Thanks also to Chantal Roder of the National Oceans Office for her contributions to my research in Burketown.

From Balkanu Cape York Development Corporation I wish to thank Chris Roberts for his advice throughout the project and for editorial assistance with the draft report, and Yuri Banens for his preparation of digital maps of Cape York

Dermot Smyth



CONTENTS

Section 1: Introduction

Scope of the report	8
Information sources	8
Structure of the report.	11

Section 2: Understanding Sea Country

Speaking for sea country	12
Researching sea country	14
Goulburn Islands to Blyth River.	16
Blyth River to Crocodile Islands.	16
Groote Eylandt	17
Sir Edward Pellew Islands	18
Wellesley Islands, adjacent mainland and saltwater	22

Section 3: Saltwater people

Aboriginal populations	24
Communities and Outstations	28
Macassan Time.	29
Sea Country Languages	30
Indigenous economic and social indicators	32
Subsistence	33
Employment	33
Commonwealth Development Employment Program	34

Section 4: Claiming Sea Country

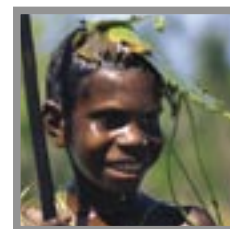
Claims based on Northern Territory legislation.	35
The Aboriginal Land Rights (NT) Act	35
The Aboriginal Land Act ('Sea Closures').	40
Milingimbi, Crocodile Islands and the Glyde River Area.	41
Howard Island / Castlereagh Bay Area	42
Statutory sea claims in Queensland.	43
Native Title in the Sea	43

Section 5: Using Sea Country

Aboriginal marine resource use in the distant past.	48
Aboriginal marine resource use since the arrival of Europeans	49
Sea Closures	50
Indigenous Fishing Survey	54
Dugong and Turtle	59
Statutory recognition of Indigenous marine resource use rights	62

Section 6: Managing Sea Country

Aboriginal management of sea country.	64
Agreement between neighbouring Traditional Owner groups.	65
Acknowledgement by non-Indigenous people	65
Direct action by Traditional Owners to exercise their customary authority	66
Strategic planning by Traditional Owners of sea country	66
Development of Aboriginal land and sea management agencies	67
Participation in consultative arrangements with government agencies	70
Marine Protected Areas	72
Protecting cultural sites	73
Summary of Managing Sea Country	74



TABLES

Table 1: Burarra and Yan-nhangu language names for saltwater features	17
Table 2: Coastal and island populations in the Northern Planning Area	25
Table 3: Percentage of Indigenous and non-Indigenous people by employment sector in the Northern Territory, based on 2001 Census data	34
Table 4: Reeves report recommendations and Northern Land Council responses	36
Table 5: Reasons for using marine and coastal resources on Groote Eylandt	50
Table 6: Anindilyakwa saltwater environmental zones	50
Table 7: Estimated annual harvest (numbers) for key species taken by Indigenous fishers living in communities in northern Australia	56
Table 8: Estimated annual harvest (numbers) for key species taken by Indigenous fishers living in communities in northern Australia, by water body type	57
Table 9: Estimated annual harvest (numbers) for key species taken by Indigenous fishers living in communities in northern Australia, by fishing method	58
Table 10: Continuity and change in dugong hunting	60
Table 11: Comparison of government and Indigenous concepts of sea country management	74

FIGURES

Figure 1: Map of Northern Planning Area	9
Figure 2a: Major Northern Territory catchments	9
Figure 2b: Queensland Gulf of Carpentaria catchments	10
Figure 3: Map of Yanyuwa clan estates	19
Figure 4: Location of coastal Northern Territory Aboriginal communities and outstations	24
Figure 5a: Major coastal land tenures in the Northern Territory	26
Figure 5b: Major coastal land tenures in the Queensland portion of the Northern Planning Area	27
Figure 6: Population structures in Queensland 2001	28
Figure 7: Aboriginal languages of the Gulf of Carpentaria	31
Figure 8: Use of Aboriginal languages by area, 1996 data	32
Figure 9a: River Beds and Banks claimed via the Aboriginal Land Rights (NT) Act	38
Figure 9b: Littoral Zones claimed via the Aboriginal Land Rights (NT) Act	39
Figure 10a: Current marine native title claims in the Northern Territory	45
Figure 10b: Registered native title claims in the Queensland portion of the Planning Area	46
Figure 10c: Queensland Schedule of Native Title Claims	47
Figure 11: Fishing participation (number of people) by region, for Indigenous fishers living in communities in northern Australia	55
Figure 12: Fishing participation (proportion of the population) by region, for Indigenous fishers living in communities in northern Australia	55
Figure 13: Annual fishing effort (events) by water body type for Indigenous fishers living in communities in northern Australia	59
Figure 14: Annual fishing effort (events) by fishing method for Indigenous fishers living in communities in northern Australia	59
Figure 15: Location of Aboriginal land and sea management agencies in the Northern Territory	68
Figure 16: The Dhimurru logo symbolising the Yirritja and Dhuwa moieties	70
Figure 17: Coastal areas covered by Northern Territory Fisheries Advisory Committees	71



Our law is not like whitefella's law. We do not carry it around in a book. It is in the sea. That is why things happen when you do the wrong thing. That sea, it knows. Rainbow knows as well. He is still there. His spirit is still watching today for law breakers. That is why we have to look after that sea and make sure we do the right thing. We now have to make sure whitefellas do the right thing as well. If they disobey that law they get into trouble alright (statement by Kenneth Jacob, Wellesley Islands native title claim, 1997).

SECTION 1: INTRODUCTION

Scope of the report

This literature review is part of the Scoping Phase of the development of a regional marine plan for the Commonwealth, Northern Territory and Queensland waters of the eastern Arafura Sea and Gulf of Carpentaria, referred to as the Northern Planning Area (Figure 1). The plan is being undertaken by the National Oceans Office, an Australian Government agency established to implement Australia's National Oceans Policy (Commonwealth of Australia 1998). Figures 2a and 2b show the major catchments within the Northern Planning Area. The Scoping Phase is due for completion in 2004; it will be followed by a more detailed planning phase, leading to the completion of the Northern Regional Marine Plan in 2005. This will be the second of a series of regional marine plans, which aim to incorporate all of Australia's oceans environments extending to the limits of Australia's Exclusive Economic Zone. The draft of the first regional marine plan, covering the waters off south-eastern Australia, was released in July 2003 (National Oceans Office 2003a).

Information sources

The report summarises the main sources of publicly available written information about Aboriginal associations with, rights to, responsibility for, use of, and management of marine environments in the Northern Planning Area. Most of the information has been sourced from books, journals, conference proceedings, workshop transcripts and land and sea claim hearings. Some use has also been made of unpublished material,

with permission of the appropriate sources. No culturally sensitive or restricted information has been used or referred to in this report.

One of the challenges of preparing this report has been to draw some conceptual boundary around the topic under review, when in fact Aboriginal marine interests embrace practically all aspects of life among coastal communities in northern Australia and are not restricted to technical management issues, such as fisheries or marine protected areas. While the report focuses on literature that explicitly addresses Aboriginal marine issues, an attempt has been made to refer to related issues, such as economic development opportunities and education and health on remote outstations, as well as to generic issues of cultural sustainability, such as the maintenance of Aboriginal languages. It has not been possible to refer to all literature sources relating to this spectrum of issues, but the report highlights the holistic and integrated nature of Aboriginal interests in Australia's northern marine environments.

The literature review is based entirely on written information. Some sources are historical, while others are very recent. It was not a requirement of this project to engage in consultations with Aboriginal communities or organisations, although the research for the report was guided and assisted by staff of the Northern Land Council, Carpentaria Land Council, Cape York Land Council and the Balkanu Cape York Development Corporation. These organisations have undertaken consultations with coastal communities and Traditional Owner groups within the Northern Planning Area, as a separate component of the Scoping Phase.

There are two alternative ways to approach a literature review: The first approach focuses on the research and information-gathering process, while the second approach focuses on the outcomes of research to explain current understanding of the topic. By and large the second approach has been used in writing this literature review, with some reference to the research processes, or differences in opinion of researchers, where necessary. The intention is to synthesise an understanding of Aboriginal relationships with the northern marine environments, as related by Aboriginal people themselves and as described by researchers in various disciplines. Reference is made to the literature to support the synthesis, rather than the literature being the focus of the narrative.

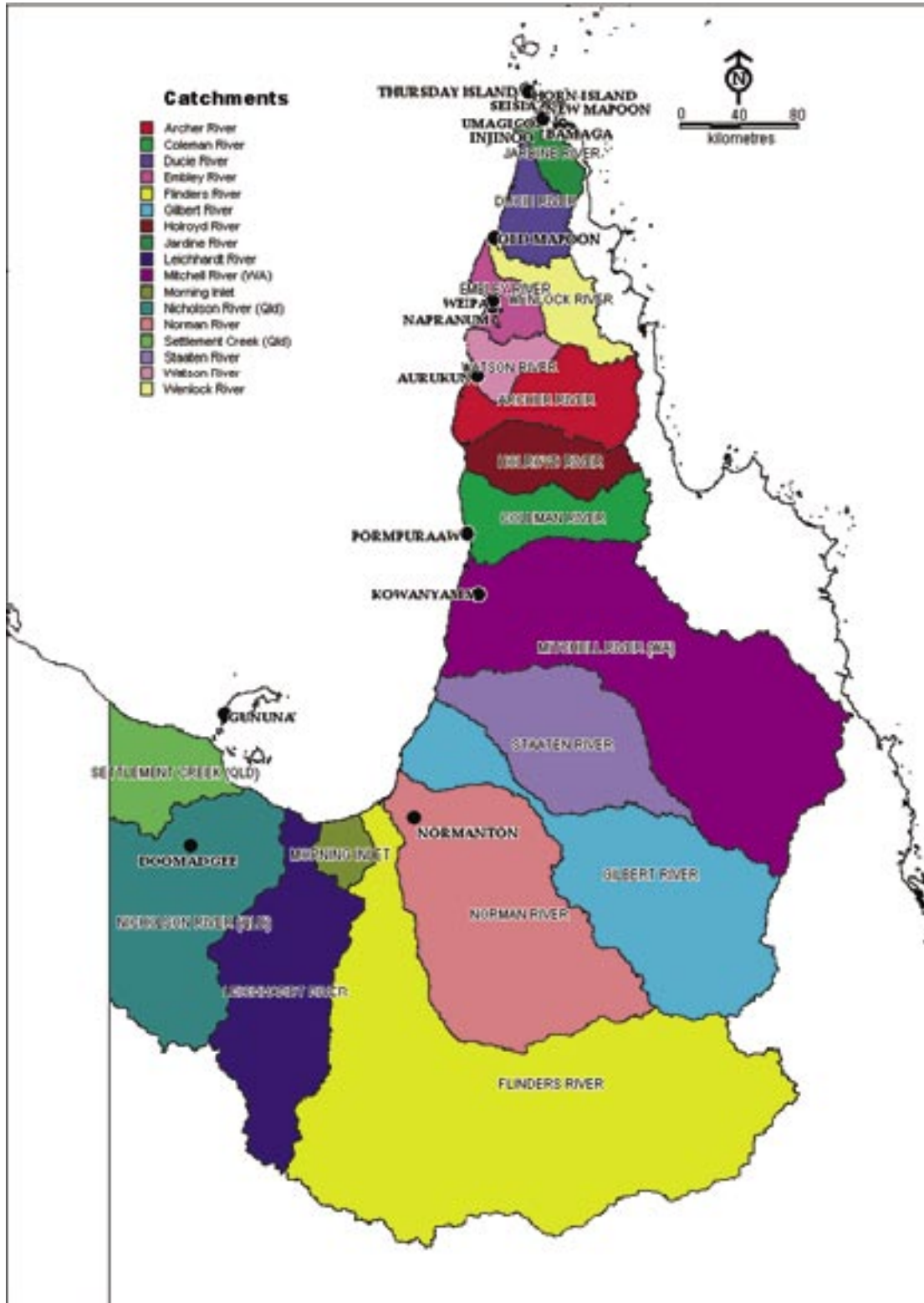
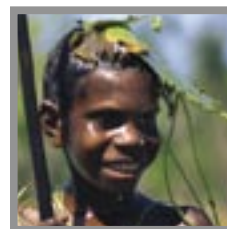


Figure 2b: Queensland Gulf of Carpentaria catchments

Source: Balkanu Cape York Development Aboriginal Corporation



Structure of this Part

This part – PART A – focuses on Indigenous issues relating to the southern and western Gulf of Carpentaria and the Arafura coast. A separate part – PART B – focusing on the eastern Gulf of Carpentaria and adjacent western Cape York Peninsula Aboriginal communities and cultures has been prepared by the Balkanu Cape York Development Corporation.

Section 2 describes the relationship between Aboriginal people and northern marine environments and the concept of sea country, as described by Aboriginal Traditional Owners and Indigenous organisations and from anthropological and legal perspectives. Regional differences in the relationship between people and the sea, based on culture, history and environments, are also reviewed.

Section 3 summarises available demographic information about coastal Indigenous communities within the Northern Planning Area, including information on cultural and linguistic diversity, social indicators and economic activities involving Aboriginal people.

Section 4 summarises the coastal land and sea claims within the Northern Planning Area since the mid 1970s. This includes land and sea claims and transfers under Northern Territory and Queensland legislation, as well as native title claims under Australian Government legislation.

Section 5 summarises Aboriginal cultural, subsistence and commercial use of the marine environment in the Northern Planning Area.

Section 6 summarises Aboriginal management of marine environments and resources through local community and government processes. These processes include pre-colonial 'traditional' management practices, contemporary activities of Aboriginal community land and sea resource management agencies, and Aboriginal participation in government management regimes.



SECTION 2: UNDERSTANDING SEA COUNTRY

That sea, that is part of our land. Our ancestors lived off it and so do we. It's not a stranger to us. We can talk the language that belongs to there. When you talk that language the sea will look after you. If you follow that law you can't miss for that tucker. That worked for the old people and it works for us.

Extract from an affidavit by Traditional Owner Michael Booth for the Wellesley Islands native title claim between the Lardil, Kaiadilt, Yangkaal and Gangalidda peoples and the State of Queensland, 1997.

This quote from a Traditional Owner in the southern Gulf of Carpentaria is typical of the large number of published statements by Aboriginal people and researchers that attest to the sea being an inseparable part of Aboriginal 'country'. Whatever the legal status of Aboriginal claims to the sea in northern Australia (to be discussed in Section 4), there is a considerable body of literature describing the complexity of the cultural, spiritual, ceremonial, territorial and economic connection between Aboriginal people and the sea – a relationship in many ways similar, or possibly identical, to that between Aboriginal people and land.

Speaking for sea country

Land and sea claim hearings, workshop reports and conference proceedings include many statements by Traditional Owners about their relationship with the sea. The following extracts illustrate the spectrum of interests in the ongoing relationships between Aboriginal people and their marine environments.

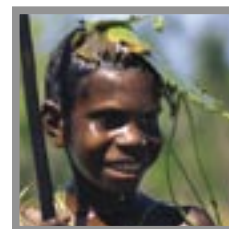
My sea is as far as the eye can see. Old people told me that – grandparents. I tell my own kids and grandkids. That's part of our country, right around that area ... If you do the wrong thing near the sea you may get maarkiri. That Rainbow Serpent in your stomach makes you sick. You can't eat tinned meat, fat or butter near the sea. You can't mix sea and land food. The Night Hawk story place got something to do with it as well. Sometimes that Hawk can go into your stomach from that place. (Vernon Kelly, Wellesley Islands native title claim, 1997).

I own the sea out to those islands and as far as the eye can see from here. That is all Barardkiya sea. As long as I cannot see boats out there it is all right. If I can see them then they are in my country ... Because I am Dulmada [clan leader/spokesman] I own everything in Barardkiya – the sea, the rocks and the sand. Even if I do not use the rocks they are still mine. If people want to take fish or anything else from there they need permission from me ... Near Cape Van Dieman there is a large reef. It is called Wungkara. It is where the cyclone story place is. It is out on the reef. It is part of Barardkiya. There is a hole there. If people touch or hit that one with a leaf that cyclone wakes up then and gets up from that hole. My three fathers used to go out with a leaf from the mangrove. They would brush over that hole when they went to make cyclone. I went there when I was young but it is a dangerous place. That is still my country there (Joseph Watt, Wellesley Islands native title claim, 1997).

The sea belongs to the country. It is the hunting country of the owners. When you see the morning glory on the horizon, that is as far as you can see. We live on the land and hunt on the sea. We cannot live without the sea. We hunt for anything we can get in the sea. We do not kill anything we cannot eat. All the sea around the islands belongs to Lardil. Whatever you can see from the land is still Lardil country. If anything comes from the blue water in my country, it's mine. If there's a dinghy that floats in my blue water in my country it's mine. My Grandfather, Charley Norman, died in 1952; he said to me 'Your country is as far as they can see.' ... I have the right to stop boats passing through my country. That right comes from the people who gave us the law (Andrew Marmies, Wellesley Islands native title claim, 1997).

You cannot take bullock or beef onto the sea water. The serpent will grab you and put you under. Even if you have greasy fingers or open a tin of meat that will happen. That is the Rainbow Serpent, Bujimala. I have seen him in the water from an aeroplane one time when I was flying to Mornington Island. Women cannot travel on the sea water with a baby. Bujimala might smell the breast milk (Major Walden, Wellesley Islands native title claim, 1997).

When Yolngu people talk about our country we include the sea in that description, especially those of us who refer to ourselves as saltwater people (Sea rights conference address by Wes Lanhupuy MLA (Lanhupuy 1993).



The sea dominates Yolngu life. More of our totems come from the sea than from the land. There are sacred sites in the sea which, although they have been under water for thousands of years now, are still sung about. Our dances are about the sea. We dance the creatures of the sea – the shark, the crocodile, the whale, we dance the octopus. Our creation spirits, even those of people inland to whom we are ceremonially connected, began in the sea. The rainbow serpent, the Djang'kawu Sisters, which are important right throughout the Northern Territory – both of these came up out of the sea. (Terry Yumbulul and Keith Djiniyini, Manbuynga ga Rulyapa Steering Committee (Yumbulul & Djiniyini 1994)).

This small sample of Aboriginal voices reveals the following features of the relationship between Aboriginal people and the sea:

- it is integral to Aboriginal concepts of country and identity
- it includes ownership of sea estates and marine resources under traditional law
- it imposes management rules and authority in traditional law
- it imposes restrictions on who can access the sea and its resources
- it imposes restrictions on how marine resources are used
- it seeks to prevent contamination of the sea, including contamination by food derived from land animals
- it is essential to the economy of coastal Aboriginal peoples
- it incorporates spiritual beings and sacred sites that are fundamental to Aboriginal understandings of creation, ceremony and religion
- it represents a continuum between Aboriginal culture in the distant past and contemporary coastal Aboriginal societies.

All of these aspects of Aboriginal relationship between Aboriginal people and the sea are reflected in the Aboriginal English terms 'sea country' and 'saltwater country', which are used interchangeably in this report. These terms describe both the customary clan estates in the sea and the economic, cultural and spiritual attributes that are embodied therein.

Saltwater people express their relationship to sea country in many forms, including art, dance, music and stories. In 1996, a group of Yolngu Traditional Owners discovered an illegal barramundi fishing camp hidden in the mangroves on their country at Blue Mud Bay on the Arnhem Land coast of the Gulf of Carpentaria. Together with a group of Traditional Owners from north-east Arnhem Land they responded by producing a collection of bark paintings explaining their connections, beliefs and obligations to sea country, which were taken on a national tour and published as the book *Saltwater* (Buku-Larrngay Mulka Centre 1999). The 80 bark paintings, produced by 47 artists, are an attempt to communicate the meaning of sea country to a wide audience in the hope that Yolngu privacy, sacred places and rights will be respected by those who now trespass on their country. Each painting is accompanied by an explanation of its stories and symbolism by the artists. Individually and collectively, the paintings are a powerful tool for communicating the depth and layers of meanings of saltwater country:

The saltwater ... here it rests in the saltwater country, but it all has names. Just like Garrngirr, just like Nadayun, just like Mumuthun, every individual's name is a special name representing country. Country where the floodwaters rush by and become one, and wherever they may rest and become one. It is that we are now telling you.

Also the rocks. Rocks that the country holds. Where the water moves ... where it rests. There are places there, names there, names that are special, that Yolngu receive in their heads. And sing and give names to children. Also it explains the country, how they became one, not only the sea but the land too. They became one.

*That is why this paper is being written in public. It will be publicly seen by non-Aboriginal people, government and foreigners. Also people who have come from afar and made this their home. So they will see our intellectual knowledge exists in the freshwater and becomes one in the saltwater (Declaration by Djambawa Marawil in *Saltwater* (Buku-Larrngay Mulka Centre 1999)).*



Researching sea country

There is a large and growing research literature on various aspects of sea country and its place in Aboriginal societies. Although anthropologists and archaeologists have documented coastal Aboriginal societies in northern Australia since the 1920s, Peterson and Rigsby (1998) point out that the concept of sea country as an extension of traditionally owned estates on land did not become the subject of study until the 1970s; this study was stimulated further by land and sea claims under the *Northern Territory Land Rights Act 1976* (Cwlth), and later under the *Native Title Act 1993* (Cwlth). In his inquiry into Aboriginal land rights in the 1970s Justice Woodward refers to the existence of sea estates in his First Report (Woodward 1973).

Peterson and Rigsby (1998) note that the first anthropological writing about Aboriginal estates in the sea comprises submissions to the *Joint Select Committee on Aboriginal Land Rights in the Northern Territory* (Morphy 1977). This was followed by studies which included the mapping of marine estates on the east and west coasts of Cape York Peninsula (Chase 1980, Chase & Sutton 1981) and reports associated with coastal land claims along the Northern Territory coast, including Keen (1980), Davis (1984) and Palmer and Brady (1984).

In anthropological literature the proprietary aspects of sea country are often referred to as 'customary marine tenure' or 'CMT'. The development of research into CMT in Australia, and regional differences in its meanings, are reviewed in a monograph devoted to the topic edited by Peterson and Rigsby (1998). Most of the contributing authors focus on documenting aspects or idiosyncrasies of CMT in particular Aboriginal societies and coastal environments, consistent with a broad definition of CMT, such as that provided by Cordell (1991), who states that:

Sea tenure is closely bound up with kinship, sharing, traditional law and authority, and other structures that shape cultural identity.

However, Pannell (1998) questions the usefulness of such a broad definition of CMT:

One of the problems with this more inclusive definition of CMT ... is that it tends to define CMT out of existence. CMT is now so broad in its scope and so encompassing in its subject range that it loses its power of discrimination.

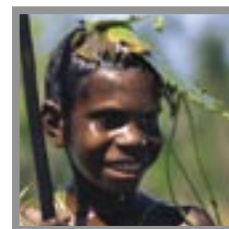
Pannell (1998) notes that the term 'customary marine tenure' is rarely used in the legal literature, where the preference is for terms such as 'sea rights' (Allen 1993, McIntyre 1993, White 1993), 'native title and the sea' (Bartlett 1993) and 'fishing rights and interests' (Sutherland 1996). Nevertheless, Pannell (1998) concludes:

This is not to say that CMT has little value in terms of its popular or political appeal. ... And perhaps it is ... in the negotiation of policy guidelines, legislative and regulatory initiatives, environmental planning, management strategies, development agreements, conservation measures, heritage protection and social equity outcomes between indigenous and non-indigenous interests, that the real value of CMT lies.

In her study of saltwater peoples and their relationships with sea country in northern Australia, Sharp (2002) draws comparisons with maritime cultures from the Pacific, Canada, United States and Europe to explore the spiritual values that underlie marine tenure systems, and which have persisted through centuries of social and political change.

Though there may be differences in terminology, there is widespread agreement that a fundamental aspect of Aboriginal peoples' past and ongoing relationship with the sea is that particular groups of people (be they clans, wider kinship groups or contemporary Aboriginal communities) have a complexity of rights and interests over particular areas of the sea and adjoining coastal land.

The following extract from *Saltwater Country* (Australia's Oceans Policy Issues Paper No. 6 (Smyth 1997)) provides a general summary of area-specific relationships between Aboriginal groups and the sea before British colonisation, and which form the basis of their relationships with sea country today. Though the past tense is used to describe the pre-colonial situation, these relationships continue to exist today, albeit modified in some areas by the establishment of contemporary coastal Aboriginal communities.



Clans and country

Although there was considerable diversity between the cultures of the hundreds of Aboriginal groups around Australia's coast, there were some common factors which reflected the relationship of Aboriginal people to the sea around Australia.

The fundamental social unit around most of coastal Australia was the extended family or 'clan'. Clan membership was typically inherited from one's father, but in some parts of Australia, clan membership was passed down through the maternal line. Intimately associated with each clan was their estate or 'country'. For coastal clans their country always included the adjoining estuaries, beaches, coastal waters and ocean. Groups of clans speaking a common language formed a wider social group, sharing ceremonies, belief systems, technologies and subsistence strategies.

The ocean, or saltwater country, was not additional to a clan estate on land, it was inseparable from it. As on land, saltwater country contained evidence of the Dreamtime events by which all geographic features, animals, plants and people were created. It contained sacred sites, often related to these creation events, and it contained tracks, or Songlines along which mythological beings travelled during the Dreamtime. The sea, like the land, was integral to the identity of each clan, and clan members had a kin relationship to the important marine animals, plants, tides and currents.

Most Aboriginal people with marine clan estates were coastal mainland dwellers. However, many lived exclusively or periodically on offshore islands, particularly off the Queensland, Northern Territory and Kimberly coasts. These island dwellers were particularly dependent on the subsistence resources of the sea and they maintained control of large marine estates radiating out from their island homes.

Extent of saltwater country

The extent of pre-colonial use of Australia's oceans by coastal Aboriginal groups varied through time and between regions. Aboriginal occupation of Australia extends at least 60 000 years, and possibly considerably longer. During this time, sea levels have risen over 100 metres, resulting in inundation of extensive areas of coastal lands, particularly around northern Australia with a low gradient shoreline and extensive continental shelf.

Following stabilisation of the sea level at its present height, about 6000 years ago, Aboriginal patterns of marine use observed at the time of British colonisation, began to be established. Around northern Australia, this included extended sea voyages by canoe to exploit resources and manage clan sea country, in some places out of sight of the mainland.

Marine technologies

Throughout coastal Australia and along major river systems, logs and bark were used as floating aids for people and their possessions. In some areas more complex rafts and canoes were used, depending on availability of materials and coastal environments.

In southern coastal areas, canoes were made from single strips of curved bark, filled with mud or clay at the ends, or wrapped or tied at either end with fibre. In northern Australia canoes were made of several pieces of bark sewn together, sometimes with pole gunwales, stretchers and ties added to provide greater strength and seaworthiness.

Technologies used for hunting and fishing in the sea included fibre nets, basket fish traps, stone fish traps, spears and harpoons with detachable heads for hunting large prey, such as dugong and turtle in northern Australia.

Following that broad introduction, the concept of sea country will now be explored in more detail through five case studies taken from research conducted within the Planning Area over the last 20 years.



Goulburn Islands to Blyth River

Information for this case study is derived largely from Cooke and Armstrong (1998), based on research undertaken for the Northern Land Council in 1996, as well as earlier fieldwork in the 1960s and 1970s.

Aboriginal people in this area of the coast assert that there are no differences between owning land and sea.

Estates and interests on land extend into adjoining seas and an estate may be comprised of mainland terrestrial, littoral, marine or insular components. These elements make up a single area which is usually known by what is referred to in English as a 'big name'. Such a big name is often that of a pre-eminent spiritual site within that territory, although it might derive also from a focal occupation location, such as a modern outstation. Sites of spiritual significance may be found in any of these ecological zones (Cooke & Armstrong 1998).

Determining the seaward extent of marine estates in this region, as elsewhere, is not straightforward. One Traditional Owner said that Aboriginal sea territory extends to:

1. Those places where they go hunting or travelling
2. Those places for which Aboriginal owners have names
3. Those places known to Aboriginal people as being inhabited by ancestral beings.

Relationship to country along this stretch of coast is typically based on a patrilineal descent group, but Cooke and Armstrong (1998) note that this may not always be a straightforward process:

People in Western Arnhemland generally talk about who country belongs to by reference back to focal ancestors who lived on the land and were associated with it in a mundane way, as well as celebrating its spiritual attributes in ceremony. Descendants of the male line can call this 'my country' and hold the broadest range of rights. The descendants of the women of the group also enjoy considerable rights.

Cooke and Armstrong documented the following inherited patrilineal rights:

1. To be asked for, or to grant or refuse permission to enter their land or sea country.
2. To be offered a share of any resources harvested in, or income derived from, land or sea within their land or sea country.
3. To be inducted into the religious life of their group and share ownership of sacred property.
4. To be free to access their own land or sea country, constrained only by temporary closures to some group members because of ceremonial activity, or because some sites may be 'too dangerous' for their owners to approach.
5. To temporarily close all or part of their sea country or land after the death of important people.
6. To allocate names associated with their estate to members of their own group or others.
7. To ensure that visitors to their country are not harmed by their country or by spirits.

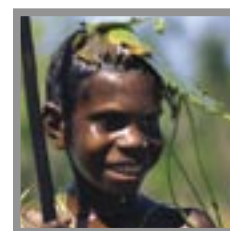
Cooke and Armstrong (1998) highlight the importance of language in defining individuals and groups with resource rights associated with particular areas:

Speaking the 'right' language for a place is not just of mundane importance – it is central to the relationship between people and the ancestral spirits of their estates and the land and sea resources within those estates ...

The Kunibidji [people of the Liverpool River] believe that these [ancestral] spirits are watching over their country and the actions of people on the country and that they have the power to affect outcomes in everyday life, particularly failure or success in hunting. They can be persuaded to be generous with natural resources, but only if asked in their own language.

Blyth River to Crocodile Islands

The Burarra people, with coastal land and sea estates along the coast from west Blyth River to Cape Stewart, and the neighbouring Yan-nhangu people whose estates include the Crocodile Islands and surrounding sea, have patrilineal descent systems similar to those described above. As noted in Bagshaw (1998), however, these two peoples' sea country is not a simple extension of their land estates:



Offshore estates areas in Burarra and Yan-nhangu domains consist either of permanently submerged or tidally exposed sites and adjacent seabed ... or ... of sites, seabed **and** the surrounding saltwater.

Furthermore, the Burarra and Yan-nhangu peoples regard the shallow, turbid inshore water and the deep, clear waters of the open sea as two distinct bodies of saltwater, referred to as *gapu dhulway* and *gapu maramba*, respectively. *Gapu dhulway* is exclusively associated with the Yirritja moiety, while *gapu maramba* is associated exclusively with the Dhuwa moiety, meaning that the two separate saltwater bodies belong to each of the two great cultural divisions of Aboriginal society and cosmology in eastern Arnhem Land Aboriginal societies. There is therefore a sense of association between people and saltwater of the same moiety extending far beyond the sea country estate of a particular clan. Whereas estates on land generally alternate between the Yirritja and Dhuwa moieties, this 'checkerboard' pattern of affiliation is not extended to the immediately adjoining saltwater, where:

A much broader, regional-level moiety dichotomy is used to define and distinguish two physically and metaphysically discrete bodies of water (Bagshaw 1998).

These separate water bodies are believed to be endowed with creative powers, which are manifest in their movement, sound and changing form. The living nature of the water is emphasised through the use of anatomical language names for various saltwater features (see Table 1).

Groote Eylandt

This case study, which primarily focuses on the northern and north-eastern coasts of Groote Eylandt, is largely derived from Palmer (1998), which in turn is based on earlier research (Palmer 1984) for a sea closure application that was lodged in 1994 but not proceeded with. Additional information is sourced from Cole (1980), Rose (1961) and Turner (1974).

The Anindilyakwa-speaking people of Groote Eylandt have a patrilineal social organisation comprising two exogamous moieties¹, which in recent times are referred to using the mainland terms *Yirritja* and *Dhuwa*. Members of patrilineal clans inherit ownership rights to estates that include both land and sea components. Though Groote is a large continental island, it is the littoral and marine environments that are richest in resources and which are the focus of economic and social activity. Palmer (1998) notes that it is the marine components of clan estates that 'link people to territory and to the spirituality implicit in the relationship between the two'.

¹ Many Aboriginal societies are divided into two halves, or moieties, membership of which is given at birth. Individuals are expected to marry someone outside their own moiety, hence they are described as exogamous moieties.

Table 1: Burarra and Yan-nhangu language names for saltwater features

Saltwater feature	Burarra name	Yan-nhangu name	English translation
wave	<i>menama gu-jirra</i>	<i>bun</i>	knees
shoreline	<i>ngana gu-jirra</i>	<i>dha</i>	mouth
relatively distant waters	<i>gochila gu-jirra</i>	<i>gulun</i>	abdomen
distant sea	<i>gumbach gu-jirra</i>	<i>miriki</i>	chest
far distant sea	<i>barra gu-jirra</i>	<i>mundaka</i>	lower back
crashing of beach surf	<i>gu-weya gu-workiya</i>	<i>bayngu wanga</i>	habitually speaking



The traditional religious belief system links people to the natural world, and in particular the sea. The majority of ancestral beings that created the natural world as well as the clan estates during their creation wanderings in the Dreaming are now believed to be sea creatures. Palmer (1998) reports that

The paths or tracks followed by the creator beings extend across the sea and are now believed manifest either in the sea, across the seabed or in the rocks and islands emerging from it.

The role of creator beings and their presence today in the seascapes of Groote Eylandt are illustrated in the following creation story involving the shark and the porpoise:

The narrative tells of the travels of Tiger Shark, who travelled from a site on the mainland via Wedge Rock and Hawknest Island and then down Northwest Bay. He created all the features of the present coastline as he travelled, emerging from the northeastern corner of Northwest Bay at Chasm Island. The sweeping action of his swimming was responsible for the many rounded bays and inlets in this area. At Chasm Island he met Porpoise who had also travelled from the mainland following much the same course as Tiger Shark, then attacked Porpoise and bit him in half, and the Porpoise is now represented as a rock at the eastern end of Chasm Island. Shark then swam around the island, forming more bays and natural features, until he reached Umbakumba. Here he chased two mullets and in doing so, created the lagoon on which Umbakumba is situated. He then travelled on to the southern area of the island (Palmer 1998).

The presence of ancestral beings in the sea places responsibility on senior clan members to ensure that country is protected and that special places are not disturbed. Failure to meet these obligations can result in severe censure from fellow clansmen and other kin, and can result in harm coming to trespassers and, potentially, all the people of Groote Eylandt.

Sir Edward Pellew Islands

The Sir Edward Pellew Group, nearby mainland coast and adjoining waters of the south-western Gulf of Carpentaria are the traditional country of the Yanyuwa people, most of whom now live in the town of Borroloola, 60 km inland. This introduction to Yanyuwa concepts of sea country is based on Bradley (1998), with additional information from Baker (1999).

The Sir Edward Pellew Islands are spread across the mouths of the McArthur River, Wearyan River and Carrington Channel, and northwards into the Gulf. Yanyuwa country is characterised by exceptionally long coastlines, resulting from the convoluted shapes of the islands and mainland, and relatively shallow seas. Not surprisingly, therefore, Yanyuwa culture is focused strongly on coastal and marine environments. A map of Yanyuwa clan estates, incorporating land and sea country, is shown in Figure 3.

The Yanyuwa language includes a system of classifying country into different types, similar to ecological land units, which in turn include different marine environments:

The sea and tidal mudflats and coastal salt pans are often described as being 'open country', where one can see a great distance, whilst the mainland and the islands are described as 'closed country' where one's view is hindered by trees, hills and other geographical features. In the Yanyuwa language, the sea is often further divided into antha, which usually refers to that sea which is familiar and often travelled on during hunting and fishing, whilst the larger expanses of open sea and ocean are termed warlamakamaka or malabubana. These latter two terms connote a sense of caution necessary when travelling on them (Bradley 1998).

Sea country is further divided into the saltwater and the seabed, also known in Aboriginal English as the 'underwater country', which contains named places as on land. In some instances, stretches of saltwater country bear the same name as the adjacent mainland, while typically sea grass beds and reefs have their own names, which are also used to refer to the surrounding saltwater.

Some of the sea grass beds and reefs are important sites due to the activities of the Spirit Ancestors, and many of them have song cycles travelling over them which are still sung during ceremonial performance (Bradley 1998).

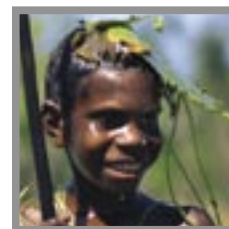


Figure 3: Map of Yanyuwa clan estates

Source: www.yanyuwa.net.au
(November, 2003)

Yanyuwa distinguish between sea grass growing in inshore and offshore areas, and understand the close association between sea grass and the turtles and dugongs that feed on them. This relationship is further emphasised by assigning kin relationships between sea grass, turtles and dugongs. Maintenance of these kin relationships depends upon maintaining the ecological relationships between the species. A similar obligatory kin relationship is assigned to seabirds and fish, and to people and dugong. That is, sea birds must continue to hunt fish, and people must continue to hunt dugong, to maintain the respective kin relationships and to ensure the survival and well-being of all species involved.

Yanyuwa sea country extends inland to the furthest limits of the salt pans, and mudflats, which may be inundated only once or twice a year during king tides or cyclonic inundations. At such times, the saltwater reaches the very edge of the 'dry' country of the neighbouring freshwater people, resulting in isolated sandy ridges becoming temporary islands.

It is the sea more than any other geographical feature which the Yanyuwa use as a metaphor for their existence and their identity. The most common term is *li-Anthawirriyarral*, which means 'those people whose spiritual and cultural heritage comes from the sea', but which in everyday English speech is rendered as 'the people of the sea' (Bradley 1998).

Yanyuwa people who have grown up at Borroloola and may have spent little or no time at the coast or islands continue to refer to themselves as saltwater people.

A Yanyuwa woman who had returned to her country after a long period working on inland cattle stations composed the following song to express her joy at regaining contact with the sea:

*I stand and feel the sea wind,
It refreshes my face; for too long
I have been a woman of the inland 'scrub country'.
(Elma Brown a-Bununbunu, quoted in Bradley
1998)*

Songs are also used as a traditional tool to control the sea, to cause waves to form or to cause the sea to become calm. Jemima Miller Wuwarlu (reported in Bradley 1998) describes how knowledgeable people have influence over others factors by singing the tide:

*The old men and women can sing people, they can sing
them to the sea, as the tide goes out people become dry,
they are tired, listless, not well, then later as the tide
comes back up they are refreshed, they feel happy again.
Such people have songs which make the sea theirs.*

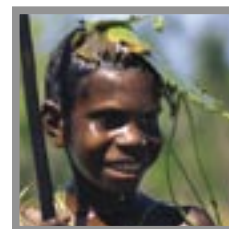
For Yanyuwa people, the sea not only contains the Dreaming tracks and resting places of the creator ancestors, it is itself one of the spirit ancestors. The sea is regarded as masculine, while the waves are feminine, and the spiritual essence of both sea and waves is believed to reside in a particular location – Cape Vanderlin on the northern tip of Vanderlin Island, the largest of the Sir Edward Pellew Group. The tidal patterns of the sea are also spiritually associated with a location on the central east coast of the same island, which is also a place associated with the activities of the Dugong Hunter Spirit Ancestors. The waves are associated with the activities of the sea snake, and hence the language name for wave crests (*nanda-wuku*) translates as 'her back', while the sea spray (*nanda-rayal*) means 'her sputum'.

The following Yanyuwa story of the tiger shark and the distribution of cycad trees on the islands provides an example of the connection between land and sea, animals and plants, people and country, stories, sites and creation stories (<http://www.yanyuwa.net.au>).



PART A: UNDERSTANDING SEA COUNTRY

Yanyuwa	English translation
<p>Baji barra akarru ma-ja barra nya-mangaji adumu ka-arri akarru nayirdi mu-mudingku. Kiluyabiyabilmanthaninya ma-mudi ma-ngakuya akarru baji barra na-wini awara Dumbarra.</p>	<p>There in the east was the cycad palm, it was with the Tiger Shark, there in the east he cared for the cycad nuts and palms, in that country called Dumbarra.</p>
<p>Kilu-yabilyabimanthaninya baki li-arlku kalu-wuthurrumanthaninya ka-bunarrinjaninya rdumantharra ma-ruku kilu-wuyuma kilu-wulunma. Ka-wuluma yilalu nyiki-ardu, 'Kajaja! Jinalu-wulthurrumanji nda-walkurra nda-rakuku'. Ngarrri? Kajakaja, yamulu kuna-ndarra aluwa ma-mangaji ma-mudi barra'.</p>	<p>As he cared for the cycads many of the other fish and sharks laughed at him as he bent over and gathered together and stacked up the dried cycad nuts. His son ran over to him and said, 'Father! They are laughing at your large penis.' He replied to his son, 'Is that so? It is alright, I will leave them and take all the cycad food from them.'</p>
<p>Bajingu li-arlku kalinyamba-rama, kumba-rama barra yumbulyumbulmantha li-arlku kalu-rama, warrarangka barra, kalu-rama marda manumanu, wariyangalayawu, wulakuku yumbulyumbulmantha.</p>	<p>So all the fish fought each other, but the Tiger Shark hit them all, all of the fish, the trevally, the large eagle ray, the hammerhead shark and the black-tipped shark, he fought all of these fish.</p>
<p>Kilu-walma nakari lawarr barra ma-mangaji ma-mudi ma-mawirl kilu-walma bawuji. Kilu-yibarra nyuwu-mangaji ki-adumula murla, kilu-yibarra ma-mangaji ma-murla. 'Bawuji, yamulu kuwa-nmala marnaji yindaa ma-mudi', ka-arri alunga. Kalngi kilu-rrbunda ma-mangaji ma-rnbaka baki ma-mawirl.</p>	<p>The Tiger Shark took the cycads, he ripped them out of the ground; those cycads being prepared in the ground he took them and left a large hole. He wrapped up the cycads and placed them on his head. He said to the other sharks and fish, 'I am finished, it is alright, I am going to take this cycad food from you all.' Truly he pulled out the cycad palms and the cycad food being prepared in the ground.</p>
<p>Bawuji barra ka-lhuwarri waykaliya bawuji barra arnindawa lhaba ka-wingka rarra yurrngumantha lhaba ka-wingka kurdardi ka-wukanyinma kangka mayirli awara kilu-nganthaninya ka-yarra barra narnu-Rrumburriyawu.</p>	<p>He travelled into the west, he travelled quietly in the depths of the sea, he did not talk because he was travelling through country which was not his. He was searching for country, which was for Rrumburriya people.</p>
<p>Barra bawuji kilu-wakarama barra, kilu-wunkanu barra nguthundiya, ngamaliya baki nguthundiya, baji barra kilu-wundarra na-wini awara Wurlmakurlma, kulu bawuji barra kilu-yibarra ma-buyi ma-murla.</p>	<p>At last he found some country, he saw the country lying to the north, to the south and further again to the north. And there he named a reed Wurlma [Vanderlin Rocks] and he placed there a small parcel of cycad palm nuts.</p>
<p>Bawuji barra ka-lhuwarri kari-nguthunda bawuji barra. Kulu kilu-wakarama nyarrku barra awara kilu-wundarra na-wini awara Nungkariwurra. Wularlwurla barra ma-mangaji ma-murla kilu-mirmimanthaninya karrilu-kala kari-nguthunda a-bulawardi ajibiya Wubuwarrarnngu, kulu kanda-arri yiku. 'Ngabinya! Ma-mangaji ma-murla yindaa ngalhi?' Kulu ka-arri anku. 'Baba! Kuna-ka, kina-ka ma-mudi karakarra kuna-ka nakari Dumbarra kuna-yibarrala baji? Walkurra jinangu waliyangu walkurra. Kuna-yibarrala kangka kanankuwanyi nakari juju?'</p>	<p>He travelled from the north until he found another place which he called Nungkariwurra. He placed the cycad bundle on his head and showed it clearly as he saw in the north a rock wallaby who lived at Wubuwarrarnngu. The rock wallaby spoke to him saying, 'Hey! That bundle of food on your head, what is it?' And he answered her saying, 'Sister! I have carried this cycad food from the east, from Dumbarra. Can I place this food here? It is a very big island. Can I place this cycad food here as my shoulders are cramped as I have carried this bundle for a long distance?'</p>



Yanyuwa	English translation
<p>Kulu anda barra a-buluwardi kanda-mirrirri yiku, 'Waraba! Waka wakaya ngamalakarilu mayangku. Karna-nmala ngarnalumba a-yurringanji, ajirdawurdu, a-yilarrwurdu ngarna ladaladawu. Ngarna wuburru wurlilirrinjawu barumanthawu. Marnaji anmaya rra-murrinjingu ngarna'. Kanumba-ngalngarranma kanda-arri jijijila barra. 'Bawuji barra karna-wingkala ngamalakarilu kumba-athamala mirningu karakarra, kariya, kari-ngamala'. Ka-wani kari-nguthunda warriya ka-wurdanka kanankuwanyi barra.</p>	<p>And the rock wallaby answered him in a manner which was very angry, 'No! Never! Go away from here to the south, to the mainland, I will stay here by myself: I belong here. I am bitter in my feelings, I am dangerous, I am heated. I will stay here and eat shellfish which I break from the rocks. Here I will stay. I belong here by myself, I have but few possessions and I have no relations.' Her words were really heated and she threatened the Tiger Shark with her fighting stick. So the Shark replied, 'Alright I will travel to the south and I will cause men to come from the east, from the west and from the south for this food.' The Tiger Shark came from the north and he was feeling badly because he was weary from carrying the bundle of cycads.</p>
<p>Ka-ngalba ankaya kila-kala awara kilu-walima na-Wuyaliyawu baki na-Rrum-burriyawu nganambaji ankaya ka-wingka Manankurralu. Bawuji barra, kalngi nya-mangaji adumu ka-wani ngamaliya nyala Manankurralu nungka-wulanginda ankaya anka.</p>	<p>He travelled underwater towards the mainland and he saw some land and he threw the cycad nuts, he threw them to the Wuyaliya country and the Rrumburriya country, in this way he travelled up the river to Manankurra. Truly this Tiger Shark he came southwards to Manankurra by way of the river, he travelled up the Wearyan River.</p>
<p>Baji barra Manankurra kilu-walima ma-mangaji ma-ngarra bajiwuthu juju kilu-walima. Kilu-wundarrba awara, kilu-wundarrba ma-arrkula ma-rnbaka Yulungurri kulu nyarrku barra wurnda Karrijiji kilu-wundarrba nya-mangaji wurnda. Kilu-yirringalanga ma-mangaji ma-arndakarnda Ma-mayjabularri kalngi ma-jumanygkarra ma-mangaji kulu na-mi adumu kumba-yibarra ngamala barra nya-mangaji rawurki kilu-wundarrba Dungkurramaji barra jambala-wundarrbanji.</p>	<p>At Manankurra he threw the cycad nut everywhere, over long distances he threw it. He called the names for the country and he called one cycad palm Yulungurri and another tree he called Karrijiji, in this way he named the trees. He erected another very tall cycad palm which he called Ma-mayjabularri, truly that tree was very, very tall. He continually threw the cycad nuts, that sacred food. And he took his eye and placed it to the south and created a well called Dungkurramaji, it is in the same way that we call this place today.</p>
<p>Kalu bawuji barra nya-mangaji Ngabaya jibiya Kalalakinda ka-wukanyi kari-ngamala, 'Ngabinya! Jaba! Ngarna-ngundarra ma-mangaji ma-mudi jaba nu-nyiri mu-mudiyu mu-ladaladawu, yinda anmaya winarrku wurra, yinda wurralngu ngarna mirningiya nguwiwi, jaba ngathangka! Nganinya barra nya-mangaji Ngabaya ka-wukanyi. Bawuji nu-nyiri mu-mudiyu aluwa liyi-Wurdaliyawu bawuji barra.</p>	<p>And there was to the south a Spirit Man at Kalalakinda [Rocky, on the Foelsche River] and he spoke to the Tiger Shark saying, 'Hey! Give to me the power songs for the poison that the cycad fruit contains, you live in the water, you are an inhabitant of the sea, while I am a man, a fully initiated man, give the things I ask for to me!' It was in this way the Spirit Man spoke and the power songs belonging to the cycad fruit came to belong to the Wurdaliya people.</p>
<p>Nya-mangaji adumu na-yurrngu wurrbingu baji Manankurra. Bawuji barra wayka rarra na-mulu na-yijan kulu ma-mangaji ma-rabarrarra kulu baji barra nu-rayal kari-wayka barranamba munmun. Bawuji barra jinangu wuka yijan nakari wabarrangu ambuliyalu.</p>	<p>The Tiger Shark remains at Manankurra. It is his proper place and there in the depths of the river his mouth is a Dreaming as is a bundle of cycad fruit which is soaking there and from it comes froth, the spit of the Shark. This is a story from the Dreaming, from long, long ago.</p>



Wellesley Islands, adjacent mainland and saltwater

The Lardil, Yangkaal, Ganggalida and Kaiadilt peoples of the southern Gulf of Carpentaria share a similar relationship with their sea country and speak closely related languages, known as the 'Tangkic' language subgroup (Evans 1995). This introduction to their respective marine cultures is based on Memmott and Trigger (1998), which draws particularly on earlier research by Memmott (1983), Tindale (1962 & 1977) and Trigger (1987).

In the region, patrilineal descent is the basis for clan membership and rights to country, as with other peoples of Arnhem Land and the Gulf. However, the Lardil and the other related groups also have a tradition of nominating an 'estate boss' for each clan area, who has authority to grant access to the estate and its resources, and who is responsible for guarding those resources, such as fish caught in a fish trap. This person is known as *dulmada* in Lardil, and *dulmarra danga* in Kaiadilt.

Like the Yanyuwa, all four groups share the concept of sea country extending to the inland limit of salt pans and mud flats. The Lardil people of Mornington Island use the term 'inside country' to refer to the inland areas of their island, and 'outside country' to refer to all their country seaward of the inland limit of the salt pans and mudflats, including the sea, seabed and offshore reefs. Inside country is characterised as being in a natural state, while outside country has been subject to intervention by creator ancestors and people.

On Mornington, for example, the extensive fish traps around the island are attributed to the work of the first three Lardil people, who brought culture and language to the island and who are now represented by three rocks rising from the sea near the eastern end of Mornington Island. Kaiadilt people believe that the fish traps on Bentinck and Sweers islands are the work of the ancestral Black Crane and Seagull, while older people recall the contribution of human labour to building and maintaining the fish traps.

Both on the islands and on the mainland, the coastal strip that forms the outer rim of peoples' sea country

is the major focus of traditional daily life. It is on the coast that the greatest number of named places occur; Memmott and Trigger (1998) have estimated that there is an average of one named place every 350–500 metres of coastline. Some coastal names are used to identify adjacent offshore sea areas, though prominent marine features such as reefs, rocks, oyster banks or sand bars may have specific names. Among these named sites are special 'story places' where ritual activities are carried out to maintain particular animal or plant species, or which are responsible for making tidal floods, cyclones or strong winds.

Story places and the Dreaming tracks of creator beings provide tangible links between land and sea, between neighbouring groups of people, and between current generations and events that occurred thousands of years ago. The ancestral Dugong (Bijarrba) emerged from a freshwater hole on Ganggalida country 17 km inland, proceeded down a water course to the sea, through the saltwater to the offshore islands and eventually went westward to Yanyuwa country. On its journey to the sea the Dugong was speared, its flesh turning to rocks along the way.

The Shark Dreaming also travelled from Ganggalida country, out to the Wellesley Islands and eventually westward to Yanyuwa country. En route the Shark Dreaming was responsible for planting seeds of the cycad tree along the north-west coast of Mornington Island and elsewhere in the region; groves of cycad trees now growing on Mornington are regarded as evidence of this mythic journey.

Of particular and continuing significance for Lardil people is the body of sacred knowledge that deals with the mythic history of the Rainbow Serpent (*Thuwatha*), which maintains a potent presence in the sea today. *Thuwatha* is believed to inflict a sickness known as *markiriil*, and some groups believe that *Thuwatha* is manifested in cyclones, waterspouts and rainbows. Examples of how creation journeys influenced the geomorphology of the region include:

... certain sacred histories which recount how various ancestral Dreamings cut through the land to make channels for the sea in the North Wellesleys – between Forsyth and Francis islands, Forsyth and Andrew islands and Denham and Mornington islands. Other histories tell how islands were 'cut out' – for example, the South



Wellesley Islands of Mirrimanki (Albinia), Durathi (Margaret), Kandinggarrbayi (Bessie), Nathayiwinda (Douglas) and Baltayi (Fowler) islands. It is worth noting that such 'creation' of the islands is consistent with the process of eustatic sea level changes of the post-glacial Pleistocene and the Holocene, some 6500 years ago, when the Wellesley Islands came into existence according to scientific accounts of the geological history of this area (Memmot 1979) (Memmott & Trigger 1998).

The seaward extent of sea country has been the subject of some debate in the context of the current native title sea claims in the region of the Wellesley Islands. Aboriginal people from this region generally speak of sea country extending as far as the eye can see, but this is dependent on weather conditions and the height above sea level of the observer. Saltwater people from this area also assert a relationship between meteorological phenomena that occur over 100 km out to sea (such as the Morning Glory cloud in the Southern Gulf) and human activities, including activities on sea country. For this reason, Memmott and Trigger (1998) have argued that:

There is thus a notion that Saltwater Law, as practiced through customary behaviour, extends out into this wider territorial domain. In this sense, the notion of native title rights and interests in sea country should be understood as potentially extending much further than solely over the waters used customarily for traditional hunting and fishing.



SECTION 3: SALTWATER PEOPLE

Aboriginal populations

Aboriginal people comprise by far the majority of the coastal and island populations in the Planning Area. According to the 2001 census there is a total population (not including Torres Strait) of 24 575, of whom 17 099 or 70% are Indigenous. Indigenous populations of the region are also characterised by low rates of migration to urban areas or interstate, which is in marked contrast to the high rate of interstate migration among the non-Indigenous population. Taylor and Bell (1996, 1999) note that the Northern Territory has the highest rate of population turnover in the country, resulting from 'its role in the national economy as a place of short-term employment opportunity for non-Indigenous people from throughout Australia (Taylor 2003).

Of the 30% of the population that are non-Indigenous, most live in the mining towns of Nhulunbuy in northeast Arnhem Land, Alyangula on Groote Eylandt

and Weipa on the west coast of Cape York Peninsula, and the fishing port of Karumba in the southern Gulf of Carpentaria.

While most Aboriginal people live in the major coastal and island communities, some of which have developed into sizeable towns originating from former mission stations, a growing proportion of the Aboriginal population lives on the several hundred outstations that are located around the coast (Taylor 1991). However, accurately estimating trends in Aboriginal populations at particular locations over time is complicated by the high mobility of people between outstations and major community centres, and difficulties in obtaining census data in isolated communities (Kinfu & Taylor 2002, Martin & Taylor 1995). At a national scale, a marked increase in Indigenous population over recent decades is partly attributed to increased willingness of people to identify as Indigenous, though that is unlikely to be a significant factor in the Planning Area.

Figure 4 shows the location of Aboriginal communities and outstations in the Northern Territory portion of the Planning Area. Table 2 summarises the populations in coastal and island towns, communities and outstations associated with the Planning Area, based on the national 2001 Census data.

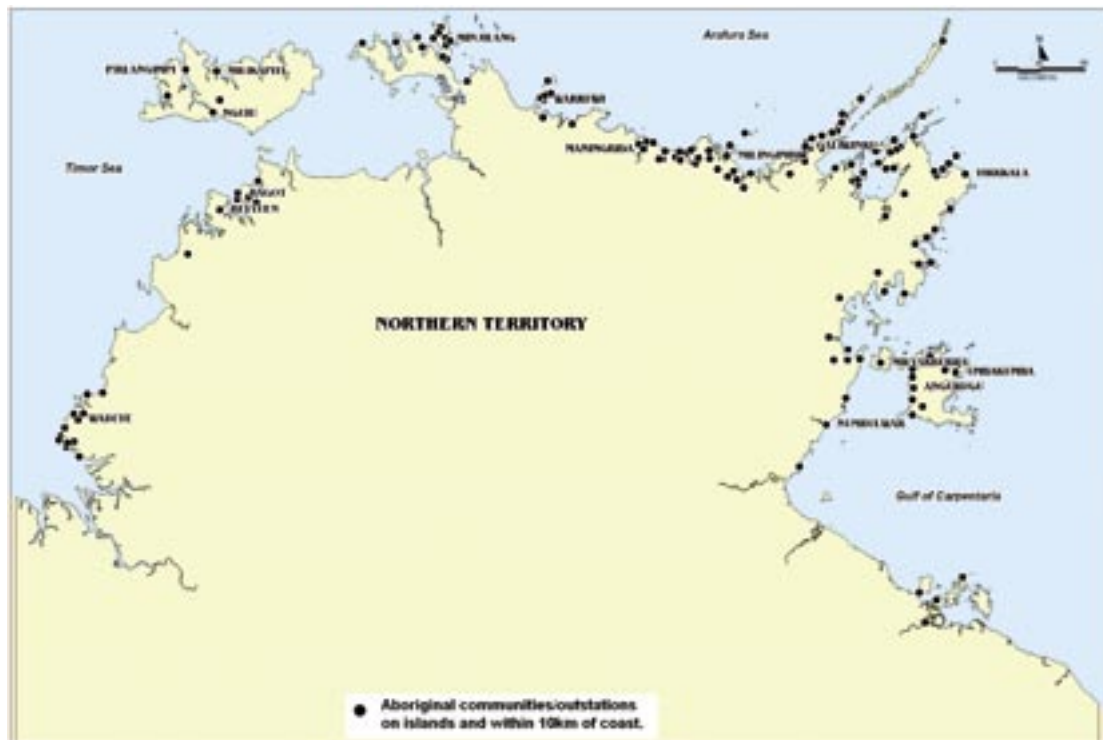
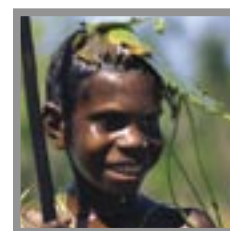


Figure 4: Location of coastal Northern Territory Aboriginal communities and outstations

Source: Northern Land Council



The large Aboriginal majority (70%) in the planning area contrasts sharply with the national proportion of the Indigenous population (2%) (Australian Bureau of Statistics 2002) in the general Australia population. This is the result of a very different experience of British colonisation in remote northern Australia compared to the south. Although northern Aboriginal populations were affected by the introduction of new diseases and religions, political marginalisation and pressures to move from bush living to settled communities, they were not physically dispossessed by waves of new settlers to the same extent as occurred throughout much of the rest of Australia, and hence did not experience the same level of frontier conflict. According to the Census data, the only coastal area in the Planning Area where Aboriginal people are in a minority is between Burketown and

Normanton in the southern Gulf of Carpentaria. This was an area subject to extensive pastoral settlement in the 1800s, which was accompanied by violent dispossession of Aboriginal Traditional Owners (Loos 1990). The contemporary coastal land tenure adjacent to the Planning Area reflects this colonial and post-colonial history; most coastal land is either under some form of statutory Aboriginal ownership or under pastoral leases, notwithstanding native title land tenure that may continue to exist (see Section 4). Figures 5a and 5b show coastal land tenure in the Planning Areas within the Northern Territory and Queensland respectively.

Table 2: Coastal and island populations in the Northern Planning Area (National Oceans Office 2003b)

Area	Indigenous population	Non-Indigenous population (or identify unknown)	Total population	% Indigenous
Goulburn Islands to Buckingham Bay (NT)	5655	550	6205	91%
Nhulunbuy Township (NT)	221	3294	3515	7%
Nhulunbuy Surrounds (NT)	1449	287	1736	84%
Groote Eylandt Area (NT)	2186	943	3129	70%
Roper River/ Borroloola Area (NT)	1383	313	1696	82%
Mornington Island Area (Qld)	848	95	943	90%
Burketown to Karumba (Qld)	951	1478	2429	39%
Western Cape York Peninsula (Qld)	4406	516 ²	4922	90%
TOTAL	17 099	7476	24 575	70%

² This figure does not include the estimated 2000 residents of Weipa (Australian Bureau of Statistics 2002).



PART A: SALTWATER PEOPLE

Coastal Aboriginal communities in the Planning Area were also largely spared the impacts of the early commercial fishing industry, which, from the mid-1800s to about 1900 was responsible for severe depopulation of eastern Cape York Peninsula through recruitment onto beche-de-mer and trochus boats and through the introduction of diseases (Loos 1990). Furthermore, most of the coastal Aboriginal groups in the Planning Area had experienced several centuries of interactions with annual visitors from across the Arafura Sea, the Macassans, prior to the arrival of Europeans (see further discussion below).

Indigenous populations throughout Australia declined from an estimated population in excess of 300 000 before British colonisation to about 60 000 by 1920 (Australian Bureau of Statistics 2003). Since that time Indigenous populations have increased rapidly, with a population structure characterised by a higher birth rate, a larger proportion of the younger age groups and a shorter life span than that of the general Australian

population. Figure 6 shows a comparison between the Indigenous population structure and the general population in Queensland, based on 2001 Census data.

There is evidence from the 2001 Census that Indigenous birth rates nationally are falling, and that the age at which women are giving birth is rising, which will result in a gradual change in the population structure. Kinfu and Taylor (2002) note, however, that Indigenous fertility rates remain high in remote areas, including in communities associated with the Planning Area.

Even where Indigenous fertility rates are falling, mortality rates continue to remain much higher than for the general Australian community. In Queensland, drawing on 2001 Census data, the median age at death was 52.5 years for Indigenous males and 54.1 years for Indigenous females, considerably lower than the median age at death for the total Queensland population of 74.7 years for males and 81.4 years for females (Australian Bureau of Statistics 2003). In the Asia-Pacific region, only Papua New Guinea reports lower life expectancies than for Indigenous Australians (Kinfu & Taylor 2002).

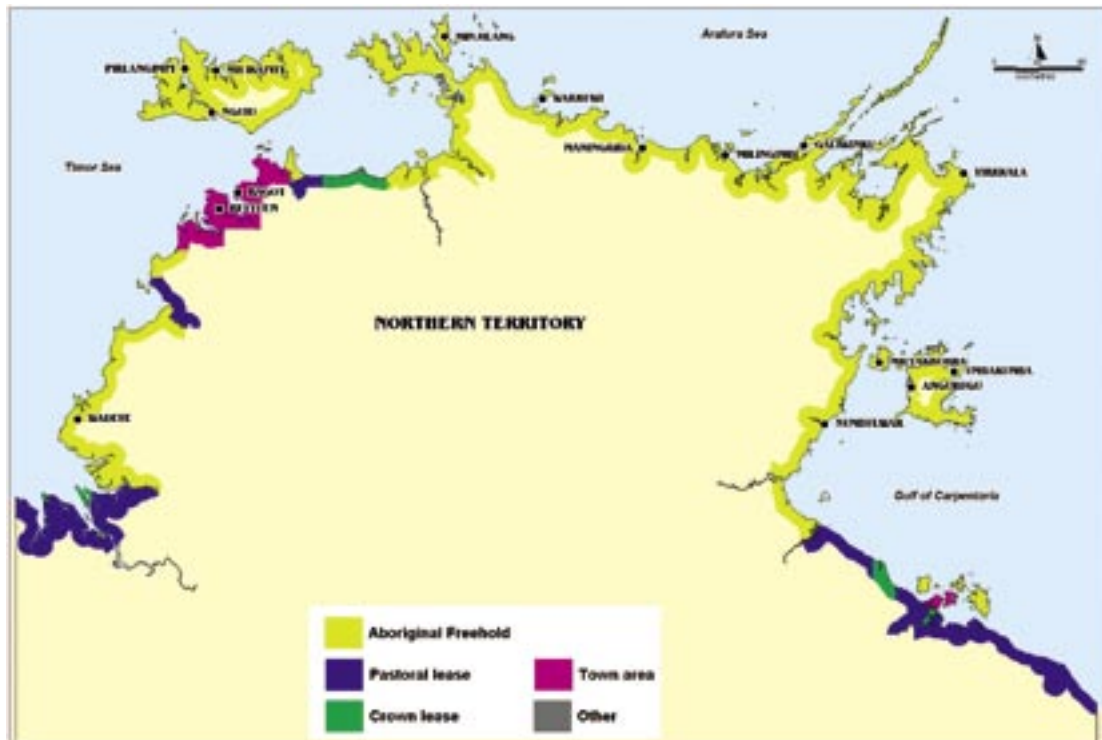


Figure 5a: Major coastal land tenures in the Northern Territory.
Note: this map does not show more complex tenures at a local scale.

Source: Northern Land Council

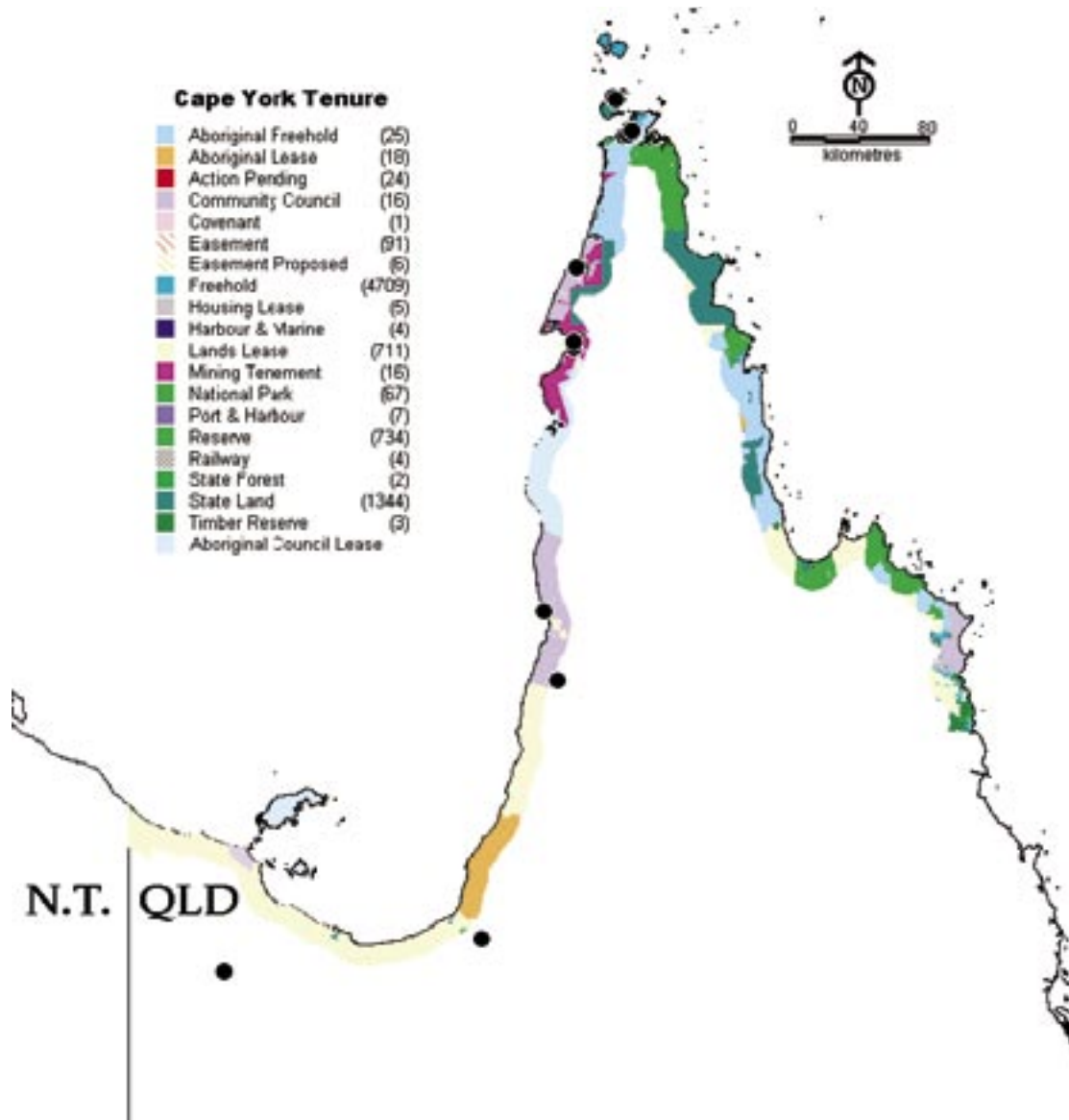


Figure 5b: Major coastal land tenures in the Queensland portion of the Northern Planning Area

Source: Balkanu Cape York Development Corporation

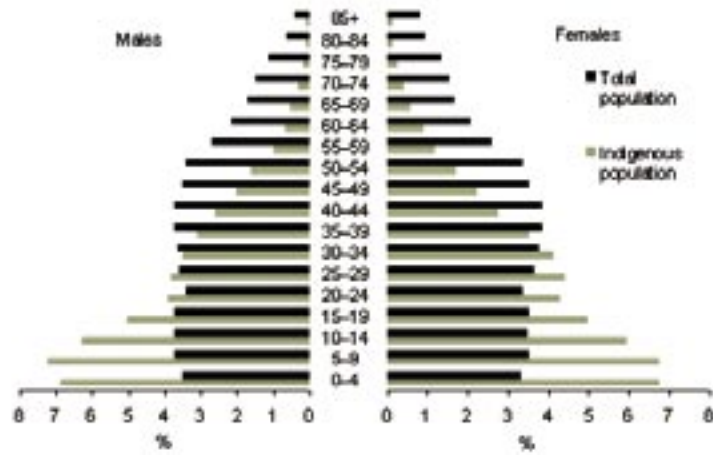


Figure 6: Population structures in Queensland 2001

Source: Australian Bureau of Statistics 2003

Communities and outstations

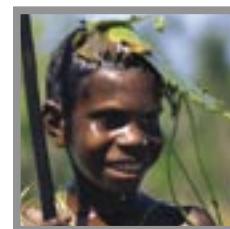
During the 1970s, Aboriginal people in many parts of northern Australia began to re-establish semi-permanent settlements on their traditional homelands, away from the government or mission settlements (Coombs et al. 1982). These 'new' settlements on country, referred to as outstations, or homeland centres, were the result of a desire to regain connection to ancestral lands, but also to get away from the social tensions that can occur in the larger Aboriginal communities. Though the resident population of particular outstations may vary considerably from month to month or year to year, or the outstations to be abandoned for periods of time, the number of outstations has grown greatly in the last 30 years and they represent a distinctive form of settlement not found in southern Australia.

Outstations have been the subject of numerous government and academic studies over the last 20 years, including a House of Representatives inquiry (Commonwealth of Australia 1987). Research has focused on a range of economic development, training, health, resourcing and demographic issues relating to outstations (for example, Connors 1986, Altman & Taylor 1989, Meehan 1982, Taylor 1991). Davis and Arthur (1998), in their annotated review of publications dealing with outstations and their supporting resource agencies, note that the literature refers to several different types of outstation in northern Australia, including:

- Small, decentralised communities of close kin (Commonwealth of Australia 1987)
- Small communities as a stage towards developing larger communities (Arthur 1990, Gerritsen & Phillpot 1996)
- Occasional, seasonal and permanent settlements (Cooke 1994).

Much of the literature on outstations and homelands deals with the challenge of providing services (housing, education, health, etc.) to small, remotely located communities with fluctuating populations, and the challenge of developing economic activities that are not based on some form of welfare. Key features of outstations that are relevant to marine and coastal management within the Planning Area include the following:

- outstations are distributed along the coastline, and hence outstation residents have the potential to be involved in monitoring and management
- residents of coastal outstations are dependent on local saltwater resources for their subsistence food supplies
- commercial fishing is one of the few industries that impacts on and utilises resources adjacent to



outstation communities; recreational fishing and marine tourism also have potential impacts on and benefits to remote coastal communities

- the limited economic opportunities available to outstations may provide a basis for priority access to commercial exploitation of local marine resources.

Macassan time

Unlike Indigenous peoples elsewhere in Australia, Aboriginal groups in northern Australia had several centuries of contact with foreign visitors before the arrival of Europeans. Along the northern coast from Cobourg Peninsula in the Northern Territory east to the Wellesley Islands in Queensland, fleets of Macassan trading and fishing boats made visits from December to April each year. Named after the port of Macassar on what is now called Celebes, in Indonesia, the crews of the Macassan sailing ships (praus) included Bugis and other people from many parts of the Indonesian archipelago and Papua New Guinea. The following summary of Macassan activities along the Top End coast, and their influence on the Aboriginal societies in the region, is based on accounts by Macknight (1976, 1986), Baker 1999), Cole (1980) and Horton (1994a).

The Macassan fleet, comprising 60 or more 25-ton praus, each with a crew of about 25, used the north-west winds during December to sail across the Arafura Sea and returned north once the south-east trade winds returned, usually in April. The main purpose of the visits was to harvest holothurians (sausage-like, soft-bodied marine animals related to starfish), also known as trepang or beche-de-mer. Holothurians live on sandy substrates in shallow tropical waters, where they can be harvested by hand at low tide, or by free diving. The Macassans collected large numbers of these animals, which were boiled in large iron pots on shore and then dried before being shipped back to Macassar. From there they were traded to China and elsewhere as a food item and reputed aphrodisiac. Remains of many Macassan camps, marked by stone arrangements used to support the boiling pots and by groves of tamarind trees planted by the visitors, have been found along the north coast and on the islands.

Macassan visits continued until 1907, when they were banned by legislation aimed at protecting Australia's northern border. Accounts of the activities of Macassans

can be found in the journals of early European navigators, and in the oral history of coastal and island Aboriginal societies. Matthew Flinders met a fleet of praus off the north-east coast of Arnhem Land in 1803 at a location he named 'Malay Road' in recognition of their presence.

Macassan visits to northern Australia extended over a longer period than European settlement of Australia, so it is not surprising that they had significant impact on their host cultures. The experience of living, working and trading with Macassans influenced Aboriginal languages, ceremonies and art, and also introduced new items of technology, including the dugout canoe, metal and glass. The introduction of the dugout canoe in turn enabled Aboriginal people to access sea country and marine resources more easily and faster. There is some evidence to suggest that Aboriginal occupation of Groote Eylandt and other offshore islands only occurred after the introduction of the dugout canoe (Rose 1961, Memmott 1983).

Each Macassan prau brought several dugout canoes, which were traded with Aboriginal people for labour (in trepang harvesting), and for pearl shells and turtle shells. Thus, the saltwater people of the Planning Area have a long history of commercial export trade in marine resources, in addition to any trade within and between Aboriginal groups. It appears that Aboriginal people began building their own dugout canoes once the Macassan visits stopped.

Relationships between Macassans and Aboriginal groups were largely cordial. The Macassans needed to be on good terms with their hosts in order to camp on the coast and islands, to harvest trepang and to employ Aboriginal labour. It was also in the interest of Aboriginal people to keep on good terms with the visitors, in order to maintain access to trade items, particularly canoes. Macassans fathered children by Aboriginal mothers during the annual visits, and Aboriginal men and women on occasions voluntarily returned with the fleet to Macassar for visits, some staying away many years or never returning. That Aboriginal–Macassan relations were not always cordial is indicated in Cole (1980),



who reports the following comments by anthropologist Norman Tindale. He interviewed Aboriginal people in the 1930s about their memories of Macassan visits to Grootte Eylandt:

The island natives, being comparatively few, were frightened of the Malays, who robbed them, enticed them with drink, and beat them when they would not work. Their attitude to the Malays was one of hate; sometimes they tried to kill them, and the stories of ambushes and attacks are told in the camps.

In addition to the introduction of new technology, and the expansion of their economy to include employment and trade, Aboriginal peoples' interaction with the Macassans influenced how they reacted to the arrival of Europeans. Baker (1999) concludes that, for the Yanyuwa of the southern Gulf of Carpentaria, the arrival of Europeans was not the extraordinary event that it was for most other Aboriginal groups in Australia:

Many groups in Australia ... regarded Europeans as supernatural spirits. They were often thought to be dead Aboriginal people returning. The Yanyuwa had no such illusions. Like other groups the Macassans were in contact with, the Yanyuwa had a wider world view. Some Yanyuwa men had even travelled back to southeast Asia with the Macassans. As a result of their experience in dealing with outsiders, the Yanyuwa were obviously in a better position than many other groups to cope with European contact. The willingness of the Yanyuwa to trade with Europeans and the successful incorporation of individual Europeans into their social and economic spheres were based on their pre-European contact experience.

Baker (1999) also reports that Yanyuwa accounts of the end of the Macassan visits in 1907 are tinged with sadness, pervaded by a view of a past 'golden era'. Their experience in negotiating, working and trading with the Macassans is compared favourably with their experience of initial contact with Europeans, which included shootings, reprisals and removal from country.

Sea country languages

Aboriginal languages are repositories of traditional knowledge and are therefore important for maintaining cultural values associated with the management of country, including sea country.

The Top End of Australia is among the most linguistically diverse areas of Australia. Of the ten Aboriginal language 'families' (groups of languages) recognised by linguists, nine occur in the Top End. These language families are thought to have developed from one original proto-Australian language, and each language family contains several distinct languages (Horton 1994a).

The Australian Institute of Aboriginal and Torres Strait Islander Studies map of Aboriginal languages (Horton 1994b) shows the approximate location of 29 Aboriginal language groups along the coasts and on the islands of the Planning Area, not including Torres Strait (where there are four principle languages). An indication of the distribution of languages within the Planning Area is shown in Figure 7. Some of these languages are actually groups of similar languages, so the number of languages spoken across this region is probably closer to 50 (Watts 1990, Evans 1995). Some language areas are relatively small, including no more than 30 km of coastline, while others cover large coastal regions. The Yanyuwa language area, for example covers a narrow 200 km coastal strip, including the Vanderlin Islands, in the southern Gulf of Carpentaria; the Yolngu language area covers an even greater length of coastline, and extends far inland into north-eastern Arnhem Land.

Many of these languages remain the first language of local communities, whose members may speak two or three Aboriginal languages as well as English. However, some languages in the region have already become extinct and for other languages the number of speakers has dropped to below 100 or even below 50 (Watts 1990). For languages that are now spoken by relatively few people, support is urgently needed to ensure that they, and the cultural and environmental knowledge contained in them, can survive into the future.

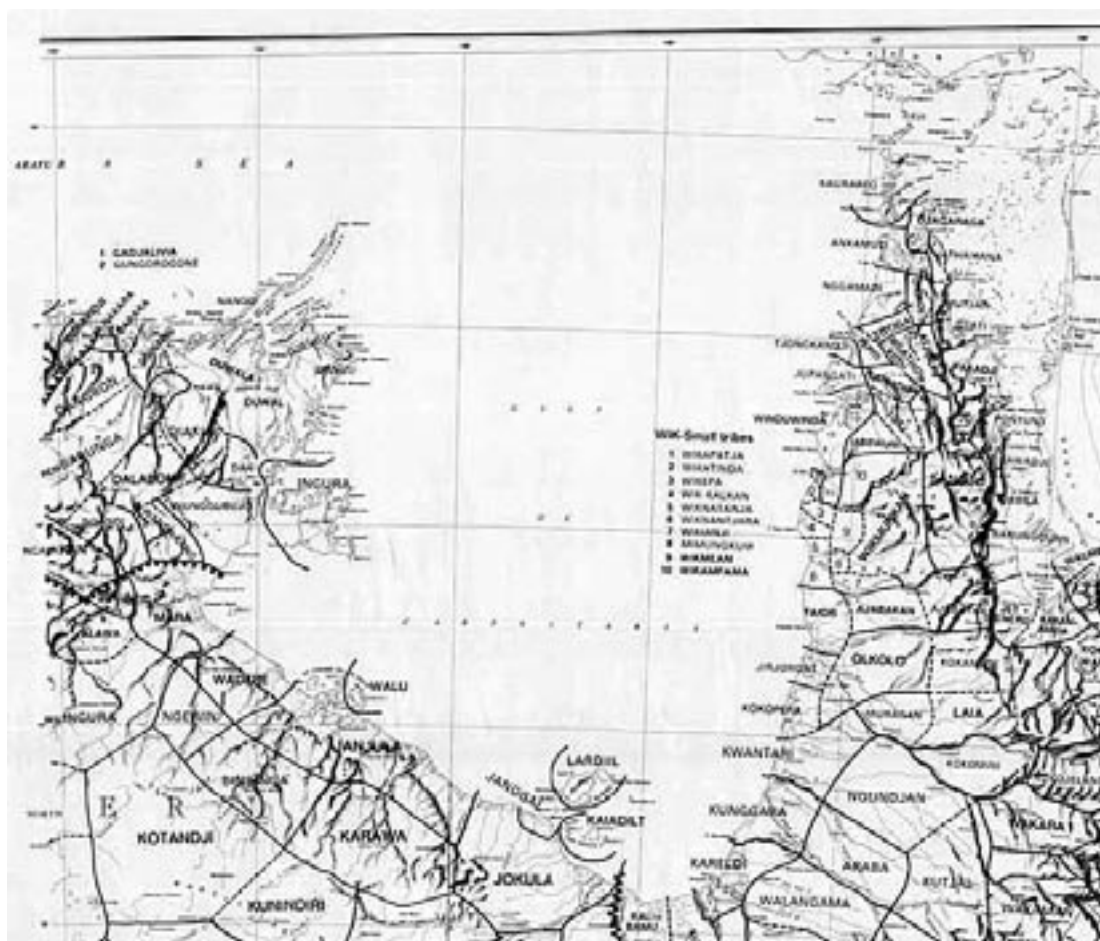
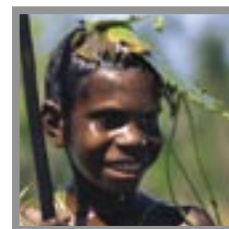


Figure 7: Aboriginal languages of the Gulf of Carpentaria.

Source: Tindale 1974

N.B. Maps showing Aboriginal language areas are indicative only and do not represent native title or traditional ownership.

Since British colonisation, Aboriginal languages throughout Australia have been subject to many influences:

In some cases speakers of different languages were brought together and one language became dominant at the expense of others. In other cases children were exposed to pidgin English or Standard English to the extent that they adopted some form of English as their first language. Where they were exposed to pidgin, they and their successors developed this into Creoles, full languages based largely on English vocabulary

but incorporating a number of traditional semantic notions ... Creoles, like Roper Creole, although often regarded as primitive and quaint by Europeans, are in fact sophisticated languages adapted to the expression of many traditional concepts and marking Aboriginal identity (Horton 1994a).

Data from the national 1996 Census indicate that the use of Aboriginal languages in communities in the Planning Area is typically higher than in most other coastal regions of Australia (see Figure 8).

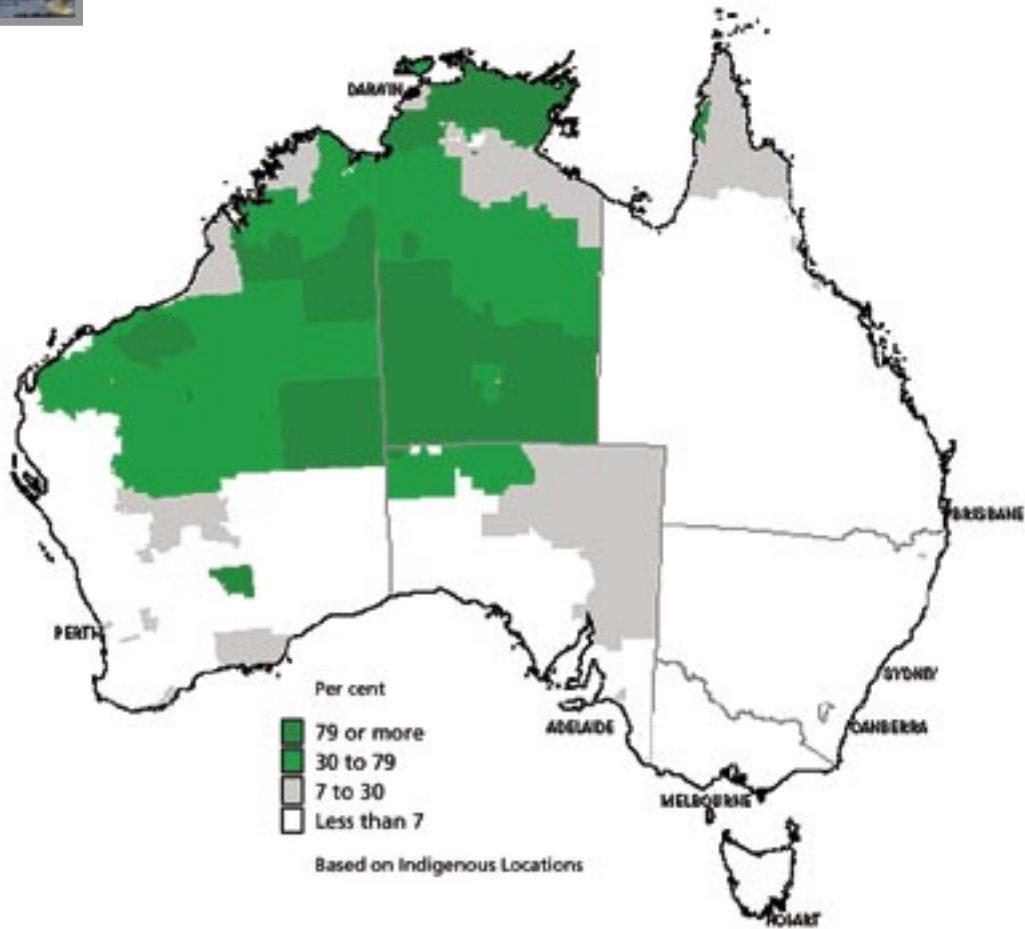


Figure 8: Use of Aboriginal languages by area, 1996 data

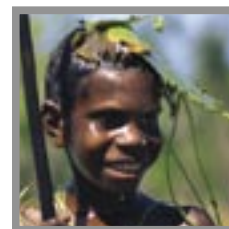
Source: Australian Bureau of Statistics 2003

Indigenous economic and social indicators

It is difficult to generalise about Indigenous incomes in northern Australia because they are subject to factors such as intermittent employment, windfall gains from the sale of arts and craft, gambling, cash loans and royalty payments (Taylor 2003, Morphy 2002). However, there is sufficient information to conclude that Indigenous families depend on welfare payments, largely through Community Development Employment Projects (CDEPs), to a greater extent than non-Indigenous residents. Indigenous access to mainstream employment is constrained by the remoteness of most communities from major employment and economic centres and by low levels of education and training appropriate for the mainstream jobs that are available on communities.

Based on analysis of the 1996 and 2001 Census data for the Northern Territory, Taylor (2003) concludes that:

Indigenous employment in the mainstream market is trending downwards along with the overall level of labour force participation, while the income gaps between Indigenous and other Territory residents is widening. Given the projected expansion of the working age population, the numbers in work need to rise just to keep the already low employment rate from falling further. The Northern Territory has a serious economic development problem – around one fifth of its resident adult population remains impoverished, structurally detached from the labour market, and ill equipped to engage with it.



In order to meet this challenge, (Taylor 2003) states that there is a need for public, flexible financial assistance in order to raise the economic status of Indigenous Territorians. He identifies an immediate need for assessments of Indigenous labour supply and demand, and opportunities for enterprise development, at a regional and local level. This is consistent with a documented low rate of Indigenous migration from remote areas to urban centres, which in any case may not result in improved economic outcomes (Taylor 2003).

Taylor suggests that there are two facts that should underpin any discussion of the current and potential economic status of Indigenous people in the Northern Territory:

1. their large and growing share of the jurisdictional population
2. their sizeable and growing ownership and occupation of land.

To these could be added their continuing assertion of rights over and responsibilities for large areas of sea country and marine resources, given limited but growing recognition over the last 30 years through legislation, native title and policy development.

There are difficulties, however, in relying on statistical, census-based data to determine economic status, or to equate economic status with social well-being. Altman (2000) points out that Indigenous people in remote communities and outstations are often fully employed in subsistence pursuits, which provide income in the form of food rather than cash. He also states:

In many communities the individualistic or household oriented economic aims that are prevalent in modern Australian society are regarded as running counter to 'correct' behaviours. In short, materialistic considerations are of lesser importance among sections of the Indigenous population (Scwabe 1995).

Nevertheless, Altman (2000) argues that standard social indicators, including quantitative indicators, are useful in determining trends in the well-being of Aboriginal societies, whose access to many resources is determined by both price structures and the availability of goods in the wider Australian and world economy.

One view of the present and future Indigenous economies (Altman 2001) is that they are and will continue to be a mixture of employment, production, subsistence and welfare – so-called 'hybrid economies'. Altman (2000) notes that the subsistence component of this hybrid incorporates environmental benefits through the management of species, habitats and land. In this sense, the hybrid economy is consistent with the concept of mutual obligation (i.e. economic/social contributions by individuals and by government) increasingly demanded by government (McClure 2000, Commonwealth of Australia 2001). Altman (2000) also points out that there is a direct link between the subsistence and market economies through the sale of Indigenous arts and crafts, the raw materials for which are often obtained during hunting, fishing and gathering activities.

There are no comprehensive data on the Indigenous hybrid economies of the Top End, but they include a combination of the following components.

Subsistence

This refers to direct harvesting and consumption of plant and animal resources obtained from land and sea country. Altman (2001) notes that while it is difficult to quantify the economic value of the subsistence economy, case studies of tropical savanna and wetland environments of northern Australia indicate that this economy is 'significant' (Altman 1987, Griffiths 2000). See Section 5 for quantitative data on Aboriginal use of marine resources in northern Australia.

Employment

The main employment opportunities in communities associated with the Planning Area are government (Australian, State/Territory and local), Indigenous organisations, mining, fishing and tourism. The total number of Indigenous people in mainstream employment in the Northern Territory in 2001 was 4994, or 20% of the Territory's Indigenous population, representing a 9% decrease since the 1996 Census (Taylor 2003).



The percentages of Indigenous people employed in the government and private sectors for the Northern Territory are summarised in Table 3. As these data include employment in the Territory's large urban centres, the actual employment in remote areas of the Planning Area is likely to be considerably lower.

Table 3: Percentage of Indigenous and non-Indigenous people by employment sector in the Northern Territory, based on 2001 Census data

Source: Taylor 2003

Employment sector	Indigenous	Non-Indigenous
Australian Government	6.9	11.4
Territory Government	10.3	17.7
Local Government	3.2	1.1
Private sector	29.3	69.1

Commonwealth Development Employment Program

Commonwealth Development Employment Projects (CDEPs) provide employment to members of Aboriginal communities, with payment at a level equivalent to their unemployment benefit entitlements, and usually amounting to two or three days' paid work a week (Spicer 1997). In the Northern Territory more Indigenous people are employed in CDEPs than in mainstream employment, and the percentage is increasing. In remote communities CDEP is typically the major employer (Taylor 2003).



SECTION 4: CLAIMING SEA COUNTRY

This section reviews the statutory mechanisms available to obtain legal recognition of Aboriginal rights and interests in the Planning Area, via land and sea claim processes. Statutory mechanisms available to achieve this recognition are different in each state and territory, while the native title claim process applies throughout Australia. Claims based on Northern Territory and Queensland legislation are summarised separately below, followed by a review of native title sea claims across the Planning Area.

Claims based on Northern Territory legislation

In the Northern Territory there are three legislative mechanisms (in addition to native title) that provide Aboriginal Traditional Owners with opportunities for statutory recognition of their interests in particular sea country. These are:

- *The Aboriginal Land Rights (Northern Territory) Act 1976 (Cwlth)*
- *The Aboriginal Land Act 1978 (NT)*
- *The Aboriginal Areas Protection Act 1987 (NT)*

The Aboriginal Land Rights (Northern Territory) Act

The Aboriginal Land Rights Act (ALRA) is Commonwealth legislation that applies only to the Northern Territory. It was enacted in 1976 in response to findings of the Aboriginal Land Rights Commission (Woodward 1973), which in turn was a response to a Federal Court decision in 1970 that denied recognition to Aboriginal customary land title in north-east Arnhem Land (Blackburn 1970). The ALRA provides for:

1. Transfer of Aboriginal reserves to Aboriginal Land Trusts.
2. Appointment of Aboriginal Land Commissioners to investigate Aboriginal claims to unalienated Crown land.
3. Establishment of statutory Aboriginal Land Councils to assist in the land claim process and ongoing management of Aboriginal land.

The ALRA does not directly enable Traditional Owners to claim their sea country, but it contains two features that relate to Aboriginal interests in the sea:

1. Transferred or successfully claimed (granted) coastal Aboriginal land extends seaward to the limit of the low tide.
2. Authority for separate Northern Territory legislation to be enacted to allow for the 'control of entry onto seas adjoining Aboriginal land'.

As indicated in Figure 5a, a large area of Northern Territory land has been transferred or granted to Aboriginal people under the ALRA; Aboriginal-owned land constitutes at least 80% of the coastline within the Planning Area. Traditional Owners of this large coastal area have statutory ownership of the land extending to the low tide mark, but under this Act they do not have ownership or control of the sea that covers this intertidal land. The ALRA also does not provide ownership or control over fisheries or other marine resources over intertidal land. Access by commercial fishers to the intertidal waters and marine resources over Aboriginal land in the Northern Territory is of concern to many Traditional Owners, has been contested in the courts and has not yet been resolved (Levy 2001).

The Commonwealth Government review of the ALRA (Reeves 1998) made several recommendations relating to ownership and management of the intertidal zone, the sea and seabed, all of which were rejected by the Northern Land Council in its submission to the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs Inquiry into the Reeves report (Northern Land Council 1999). The Reeves recommendations and responses from the Northern Land Council are shown in Table 4.



Table 4: Reeves Report recommendations and Northern Land Council responses

Source: Northern Land Council 1999

REEVES REPORT RECOMMENDATIONS	NLC RESPONSES
<p>INTERTIDAL ZONE</p> <p>The Land Rights Act should be amended to provide that the areas of the Northern Territory on the seaward side of the high water mark, that are not already Aboriginal land under the Act, are not available for claim under the Act.</p>	<p>NO. Such issues should be decided by Land Community/Commission and Councils.</p>
<p>The common law position regarding the ownership of living fish and native fauna on Aboriginal land should be confirmed in the Land Rights Act.</p>	<p>NO. In current Australian common law Aboriginal people have native title rights to fish and fauna.</p>
<p>The Northern Territory Legislative Assembly should be given the power to pass legislation to provide for the joint management of the resources in the intertidal zone and the territorial waters of the Northern Territory, both on and off Aboriginal land, in conjunction with those Aboriginal people who have traditional interests in those resources and areas and other persons and groups with interests in those resources and areas.</p>	<p>NO. Such matters must await the outcome of current land claims and litigation. The NLC proposes amendment to the Act to recognise traditional rights to the sea and resources.</p>
<p>The Northern Territory's power to make laws in this regard should be made sufficiently broad to allow it to permit members of the public, who are lawfully fishing in such waters and commercial fishermen licensed to fish in such waters, to place anchors, nets, fishing lines or other similar items of equipment on the bed or shore of the intertidal zone on Aboriginal land.</p>	<p>NO. This is unnecessary and completely fails to recognise the cultural and economic importance, and the size, of intertidal zones. Where it is appropriate, agreements can be reached between fishers and traditional landowners.</p>
<p>The order of priorities given to the interests of the various groups involved in the joint management regime should be:</p> <ol style="list-style-type: none"> 1. Conservation and certain other identifiable overriding interests; 2. Traditional hunting and fishing; 3. Commercial and recreational hunting and fishing. 	<p>NO. This priority list is misleading. Traditional rights and conservation are entirely consistent and should not be presented as competing interests.</p>



REEVES REPORT RECOMMENDATIONS	NLC RESPONSES
<p>SEAS AND SEA BEDS</p> <p>The expression ‘low water mark’ should be defined in s. 3 of the Land Rights Act to mean the mean low water mark.</p>	<p>NO. This question is currently before the courts for determination. If an amendment were made contrary to the Court’s decision, then government may have to pay compensation for the acquisition of property.</p>
<p>The Land Rights Act should be amended to provide that the areas of the Northern Territory on the seaward side of the (mean) low water mark on land granted to an Aboriginal Land Trust under the Act, and on the seaward side of the high water mark of all other land in the Northern Territory (including the sea bed under the Northern Territory’s territorial waters), should not be available for claim under the Act.</p>	<p>NO. This should be decided by the courts.</p>

The House of Representatives Committee chose not to make a recommendation on any matters relating to the intertidal zone, the sea or the sea bed:

... given the state of flux on these issues and because the recommendations in the Reeves Report may be overtaken by findings in the court ... (HORSCOATSIA 1999).

Figures 9a and 9b show areas of river beds and banks, and intertidal areas currently under claim via the ALRA.



Beds and Banks claimed under ALRA

Figure 9a: River banks and beds currently under claim via the Aboriginal Land Rights (Northern Territory) Act 1976 (source: Northern Land Council)



Figure 9b: Littoral zones (areas of intertidal land) under claim via the Aboriginal Land Rights (Northern Territory) Act 1976 (source: Northern Land Council)



The Aboriginal Land Act ('sea closures')

Section 12 of the Aboriginal Land Act, enacted by the Northern Territory Legislative Assembly in 1978, empowers the Administrator of the Northern Territory to 'close' the sea adjoining and within 2 km of Aboriginal land to:

Any persons or class of persons, or for any purpose other than to Aboriginals who are entitled by Aboriginal tradition to enter and use those seas and who enter and use those seas in accordance with Aboriginal tradition.

This provision was made in response to Justice Woodward's recommendation (Woodward 1973) that Aboriginal use and enjoyment of the seas adjacent to their land should be protected. As Allen (1993) observes, Justice Woodward accepted the authenticity of Aboriginal traditional claims to islands, estuaries, bays and surrounding seas up to twelve miles (30 km) off the coast, but was:

... unable to endorse a claim to an area of the sea as great as twelve miles from the coast. It seems to me that the legitimate interests of Aborigines will be protected if their traditional fishing rights are preserved and their right to the privacy of their land is clearly recognised by the establishment of a buffer zone of sea which cannot be legally be entered by commercial fisherman or holidaymakers. An exception would have to be made in the case of emergencies (Woodward 1973).

Allen (1993) observed that:

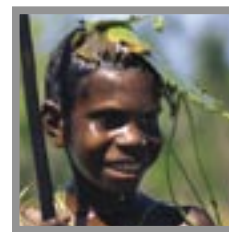
While the claim to salt-water country was accepted as authentic it was rejected. The 2 kilometre zone was extended largely to provide a buffer zone ancillary to the possession of land.

The Administrator is obliged to make a determination of an application for a sea closure within 56 days, or refer the matter to an Aboriginal Land Commissioner, who is a judge of the Supreme Court of the Northern Territory. Section 12(3) of the Act requires the Land Commissioner to inquire into the following:

- a. Whether, in accordance with Aboriginal tradition, strangers were restricted in their right to enter those seas;
- b. Whether the use of those seas by strangers is interfering with, or may interfere with, the use of those seas in accordance with Aboriginal tradition by the Aboriginals who have traditionally used those seas;
- c. Whether the use of those seas by strangers is interfering with, or may interfere with, the use of adjoining Aboriginal lands by the traditional Aboriginal owners;
- d. Whether any person would be disadvantaged if the seas were closed to him;
- e. The commercial, environmental and recreational interests of the public; and
- f. Such matters as the Aboriginal Land Commissioner considers relevant to the closure of those sea.

Aboriginal organisations (for example the Northern Land Council (1992, 1999) and others (for example Smyth 1993, Bergin 1991, Allen 1993, Davis 1985) have pointed out that the so-called 'closed seas', once gazetted, are in fact open to most pre-existing users of the area, including licensed commercial fishers, Naval vessels, Australian Government personnel and vessels supplying coastal Aboriginal communities, and that there is little additional protection for Aboriginal interests in the closed areas. Allen (1993) notes that although the right of access to closed seas does not pass on when fishing licences are sold or transferred, where they are held by companies they are effectively perpetual. The Northern Land Council (1997) drew attention to this aspect of the sea closure legislation in its submission to the House of Representatives Inquiry into the Commonwealth review of the Aboriginal Land Rights Act (Reeves 1998):

The major deficiency of this legislation arises from the interpretation whereby holders of 'current' commercial fishing licences are exempt. This exemption applies to persons who renew licences which were held prior to the gazettal of a sea closure.³ Renewal may validly take place up to 6 months after the 'expiry' date of a licence, and still attract exemption.⁴ Licences are held by corporate bodies which, for legal purposes, may be regarded as immortal. Generally, most licences required by the fishing industry are presently in existence. Thus the effect of any sea closure may be avoided simply by the relevant corporations renewing their licences from time to time Northern Land Council (1997).



Davis (1985), reviewing the impact of the successful Milingimbi, Crocodile Island and Clyde River sea closure application, concluded that:

Ultimately then it seems it is only the rare touring yacht that may be subject to restrictions applying to areas of closed seas and yet Aboriginal people have often shown considerable hospitality to such yachts.

The effectiveness of sea closures is further limited by the lack of a structured enforcement mechanism. Closure of seas does not empower local Traditional Owners to manage the area or to control access by others, other than by reporting incidents to the police. A further difficulty in enforcing sea closures is the lack of certainty about the areas to which they apply, because of difficulties in ascertaining the exact location of the low water mark, which constitutes both the seaward limit of Aboriginal land and the landward limit of a sea closure. Davis (1985) summarises the problem as follows:

The closure of sea is operative from the low water mark of the adjoining Aboriginal land. However, there is no indication in the Arnhemland Land Grant (1993) as to which low water mark was intended (i.e. low water Indian spring, low water neap, mean low water, lowest astronomic tide). In areas of large tidal amplitude and low gradient coastline such as are dominant along the coast of north Australia, small variations in vertical height as may be evident between alternative interpretations of 'low water mark' may result in large horizontal shifts in the seaward extent of the closure zone. In the Milingimbi region, for example, from the high water Indian spring tide mark there is approximately a thirteen kilometres seaward exposure of substrate from the seashore on 0.1 metre tide which approximates to lowest astronomic tide. The lateral shift in the two kilometre wide closure zone declared under Northern Territory legislation consequent to various interpretations of the term 'low water mark', including that currently employed by officials, could conceivably be of such magnitude that the closure zones from lowest astronomic tide and low water mean tide respectively are entirely disparate. With the closure operating from mean low water mark, there would be occasions such as extremely low tides approaching 0.1 metres when the zone of sea closure would be entirely exposed ... a sea closure with no sea.

As a result of these limitations, and the time and cost involved in pursuing sea closure claims, this mechanism for achieving recognition of Aboriginal rights and interests in sea country has not been widely applied in the Northern Territory. A total of six sea closure applications have been lodged along the Northern Territory coast, of which four are within the Planning Area; two of these applications have been successful, while the third has been withdrawn (Bergin 1991). Key features of the two granted sea closures are summarised below.

Milingimbi, Crocodile Islands and the Glyde River Area

In 1979 an application was made for the closure of seas surrounding the island of Milingimbi, the seas off the Glyde River and the seas surrounding the Crocodile Islands chain extending 50 km out to sea from Milingimbi. After an inquiry, the Aboriginal Land Commissioner, Justice Toohey (Toohey 1983), recommended that the sea closure be granted. Having heard evidence from Traditional Owners, Justice Toohey concluded:

I am satisfied that, in accordance with Aboriginal tradition, strangers were restricted to enter the seas adjoining the land under consideration ... A number of Aboriginal witnesses made it clear that, in terms of traditional ownership and use, no distinction is drawn between land and the seas adjoining. Both contain places of significance; both provide means of subsistence. ... It may be that the need to obtain permission was for the protection of the visitor as well as the maintenance of rights of the residents. It was to ensure not only that sacred places were not desecrated but also that visitors were warned of those places so that they might avoid the dangers inherent in them (Toohey 1981).

Other key conclusions made by Justice Toohey include the following.

- Aboriginal people have a justified concern that the activities of commercial fishermen, especially around the Glyde River, are a danger to the food supply for Aboriginal people and a threat to places and things



of totemic importance, including totemic fish and crocodiles of particular importance to some clans.

- Aboriginal people are concerned about the possible pollution of the shoreline and potential damage to sacred sites on land because of the activities of commercial fishermen.
- Current holders of commercial fishing licences will not be disadvantaged by the sea closure because they can continue fishing, and can continue to have their licences renewed, although they are required to notify the Northern Land Council each time they enter and engage in fishing within the closed sea area.

Howard Island / Castlereagh Bay Area

This is an area of sea country comprising the traditional estates of four clans (Balmawuy, Wora, Gamalanga and Ubulkurra) on the central north coast of Arnhem Land, east of Milingimbi. In considering whether, according to local Aboriginal tradition, strangers were restricted in their right to enter the adjoining seas, the Aboriginal Land Commissioner concluded:

The evidence established that the applicants believe that 'wangarr', the ancestral beings, created the land and sea and are manifested therein. The applicant's traditional right to their estate was shown by their knowledge of their sacred places, myths and their obligation to perform ceremonies and to care for the sacred sites therein. This obligation to care for their country vested in the applicants a correlative traditional right to be consulted by strangers before they entered, and the right to allocate the use of their country's resources. If a stranger is not properly introduced to the country, the consequences of his unknowingly disturbing the Wangarr are seen as serious both for himself and the traditional owners; it is believed that illness, death, storms, or a change in the marine species available could result.

It can be seen that the traditional requirement that strangers obtain the applicants' permission to enter the land adjoining the sea was not simply a mechanism to control property or the use of property, but existed

because of the perceived secret and dangerous nature of the sacred places and the beings therein. This is common throughout Aboriginal Australia. Permission (and thus control) was regarded as necessary both to protect the sites from people who lacked the knowledge essential to avoid desecration, and to protect those people and society as a whole from what was perceived as the possible cataclysmic effects of their ignorance (Kearney 1988).

The Aboriginal Land Commissioner went on to consider whether the use of the adjoining seas by strangers, particularly by commercial fishers, without control by the Traditional Owners, might interfere with their traditional use of area. He concluded:

I consider that the use of the adjoining sea by the applicants so vital a part of their culture and their traditional lifestyle, which they still in considerable measure follow, that any uncontrolled use of those seas by strangers might seriously though unwittingly interfere with the applicants' use.

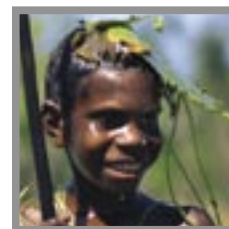
The Aboriginal Land Commissioner also accepted the applicants' assertion that:

... some sacred sites encompass both land and adjoining sea. Use of the seas in proximity to those sites may have a profound effect on Aboriginal custodians of the said sites. Likewise some supernatural beings travelled from sites in the seas to sites on the land. Thus usage of the seas by strangers may affect sites on the land and custodians of said sites (Kearney 1988).

Commenting on the potential environmental consequences of closing the sea, the Aboriginal Land Commissioner concluded:

It is clear that the lifestyle of the applicants is in balance with the coastal ecosystem in this area. Accordingly, no adverse environmental consequences should flow from a closure of the adjoining seas, while the risk of disturbance would, if anything, be reduced. (Kearney 1988)

The Aboriginal Land Commissioner also discussed how the definition of low tide should be used in calculating the seaward boundary of Aboriginal land, and recommended the use of the mean low water mark as the most appropriate measure (Kearney 1988).



Statutory sea claims in Queensland

Figure 5b shows the extent of Aboriginal-owned land within the Queensland portion of the Planning Area. Though there is a considerable area of coastal Aboriginal land on western Cape York Peninsula and in the islands of the Gulf of Carpentaria, the seaward boundary of this land is the high tide mark (unlike in the Northern Territory, where Aboriginal land extends to the low water mark).

The 1991 Aboriginal Land Act (Qld) includes provision for the Queensland Government to gazette intertidal land as available for claim if it is adjoining Aboriginal-owned land. No such intertidal land has been gazetted for claim within the Planning Area. As a result, the only statutory recognition of Aboriginal sea country in Queensland is for the land beneath the estuaries and tidal streams that penetrate some distance into the Aboriginal Deeds of Grant in Trust and the Aboriginal Shires of Aurukun and Mornington Island. This, however, provides no recognition of Aboriginal interests in the tidal waters above those estuary and creek beds, and hence no control over access to the saltwater resources of those waterways.

Native title in the sea

The first assertion of native title in the sea in Australia occurred in 1982 around the islands of the Murray Islands, within the Torres Strait portion of the Planning Area. Though this resulted in the landmark Mabo High Court decision ten years later, the marine component of the claim was dropped (for various legal and procedural reasons) prior to the case reaching final determination (Sharp 1996). Nevertheless, the Native Title Act 1993 (Cwlth) provided for the possibility of native title in the sea, provided Aboriginal people could demonstrate its existence in local customary law, and provided it had not been extinguished by some explicit act of government.

Native title is a significantly different form of legal recognition from the statutory recognition in the Aboriginal Land Rights (Northern Territory) Act (Cwlth) and the Aboriginal Land Act (NT), described above. Native title on land or sea is the recognition of pre-existing Indigenous customary laws regarding ownership and management of country, whereas the previous land rights legislation dealt with the granting of land (including intertidal land) by governments to Aboriginal

people on the basis of their cultural and economic relationship with the land, and on the assumption that any previous customary legal rights to the land had been extinguished by the act of colonisation.

During the decade following the Mabo High Court decision in 1992 there was considerable speculation as to how the principles laid out in this decision could be extended to the sea (for example, Allen 1993, Bartlett 1993, Smyth 1993 & 1994, Sutherland 1996, Finlayson & Smith 1995, Kilduff & Löfgren 1996, Meyers et al. 1996, McIntyre 1993, Pannell 1998, Sparkes 1998, Sharp 1998 & 2000, Glaskin 2000, Keon-Cohen 2001). Since the first marine native title High Court decision in 2001 (Commonwealth v. Yamirr and Yamirr v. Northern Territory, also known as the Croker Island case), there has been somewhat more certainty about the possible extent of recognition of customary Aboriginal rights and interests in the sea through the native title process, though some issues remain to be explored and determined in future High Court decisions.

Strelein (2002) prepared a review of the implications of native title in the development of the South-east Regional Marine Plan for the National Oceans Office. This provided a comprehensive review of the Croker Island decision and how the implications for marine planning apply to all Australian waters, including the Northern Planning Area. The following summary of native title issues is derived largely from Strelein (2002), with additional information from Morris (2002) and from material relating to the five marine native title claims currently under consideration within the Planning Area.

The Croker Island case

This case involved a claim for full, exclusive recognition of native title to sea and seabed asserted by the members of four clans whose traditional land on Croker and nearby islands off the western Arnhem Land coast had already been granted through the Aboriginal Land Rights (Northern Territory) Act. In 1998 Justice Olney of the Federal Court determined that native title did continue to exist in the sea, but that it was a non-exclusive right. The decision was appealed (by the claimants and by the Commonwealth and Northern



Territory governments) to the Full Bench of the Federal Court, which confirmed the original decision in 1999. The case was then appealed to the High Court, which, in a majority decision, made a final determination in 2001, again confirming the original Federal Court decision. The main elements of the High Court decision are that native title:

- is confirmed to exist in the sea
- has been regulated by government acts, but not extinguished
- is not exclusive because:
 - ~ it has not been established as exclusive under customary law, and
 - ~ it is contrary to the public access, fishing and navigation rights under common law
- does not include mineral rights because –
 - ~ such rights have not been established under customary law, and
 - ~ legislation relating to the ownership of minerals would have extinguished such rights had they existed
- includes the rights to –
 - ~ fish, hunt and gather
 - ~ access the sea and sea bed
 - ~ travel through and within the claim area
 - ~ visit and protect places of cultural and spiritual importance
 - ~ safeguard cultural and spiritual knowledge

and that Aboriginal rights must yield to other rights and interests under Northern Territory or Commonwealth legislation.

The challenges that native title presents to established law are indicated by some of the opinions expressed by the dissenting High Court judges. Judges McHugh and Callinan agreed with the Commonwealth that common law did not extend beyond the low water mark, and hence that native title cannot be recognised in the sea beyond that point. Justice Kirby, on the other hand, found that exclusive native title in the sea is consistent with public common law rights, pointing out that the common law right to fish ceases to operate in areas where there are proprietary rights (such as aquaculture

leases). He concluded that the claimants may have the authority to exclude people conducting tourist activities, fishing without a licence or extracting natural resources without the Traditional Owners' consent.

Though the High Court decision is final with respect to the Croker Island case, several aspects of marine native title remain to be tested in future cases. These include:

- whether native title can extend beyond 12 nautical miles into Australia's Exclusive Economic Zone
- whether native title may include a non-exclusive right to trade in marine resources
- the extent to which the right to protect places of cultural significance (recognised by the majority decision in the Croker Island case) can be used to exclude people from such places, given the overall non-exclusive nature of marine native title
- the extent to which marine native title implies a right to be involved in decision-making about marine resource and environment management.

Strelein (2002) highlights the remaining uncertainties surrounding marine native title by observing:

Clearly, the courts at all levels in the Yarmirr case envisage that native title offshore was something more than merely equivalent to the public rights to fish and navigate. What that 'more' entitles native title holders to do with their title is less clear.

Morris (2002) points out that, whatever the precise legal boundaries for marine native title set by the courts, negotiations on marine resource management will still have to address Aboriginal perspectives of sea country:

The decision of the High Court clearly confirms that native title can be recognised and protected in relation to Australia's coastal seas. However, at this stage, the courts will not recognise exclusive native title rights to the sea on the basis that those rights are inconsistent with the public rights to navigate and fish, and the international right to innocent passage. The decision establishes a framework for the negotiation of 120 native title applications which include sea areas. Nevertheless, the parties to those negotiations will still need to address the exclusive customary rights of claimant groups to the sea, even though those rights would not receive legal recognition as native title rights.

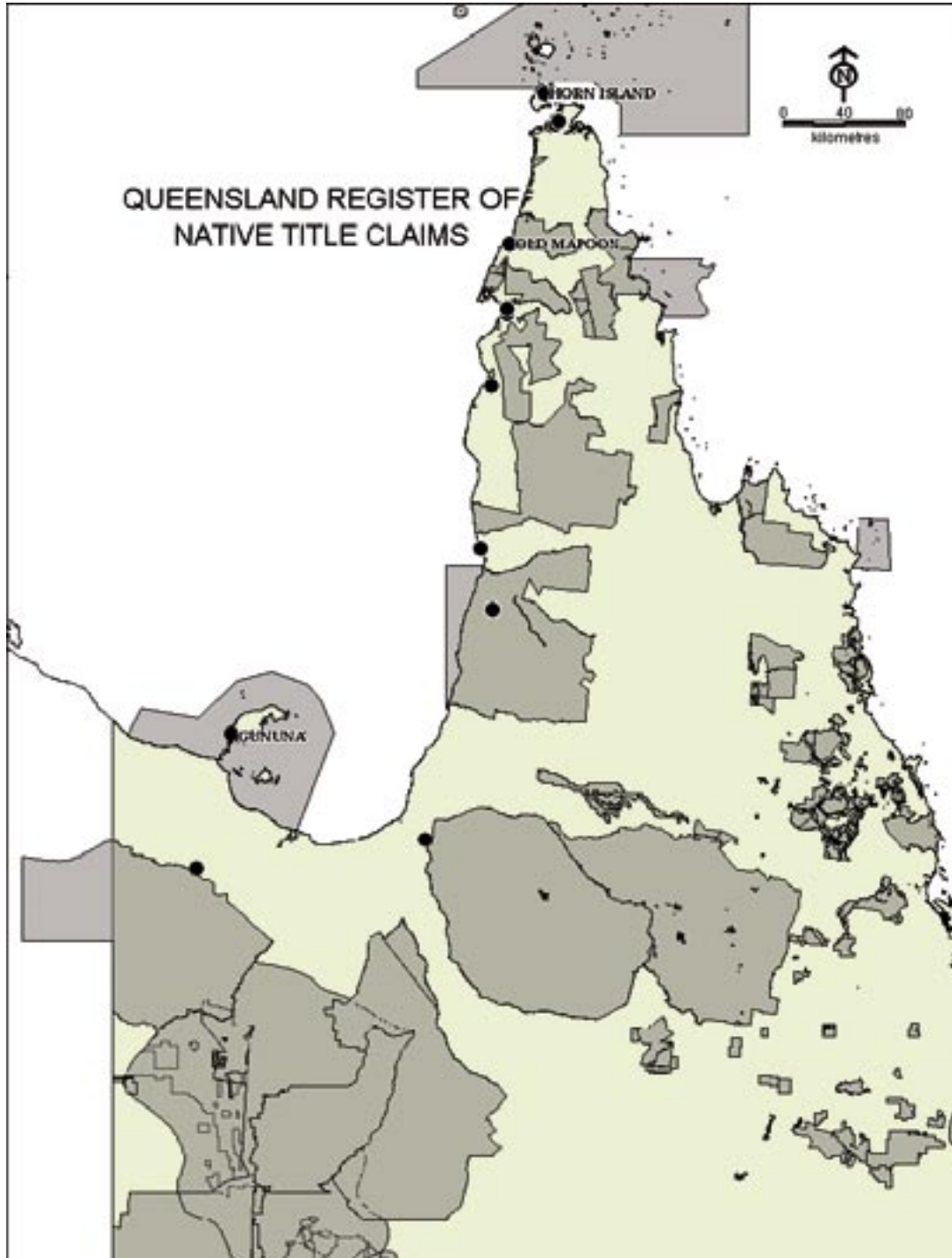


Figure 10b: Registered native title claims in the Queensland portion of the Planning Area

Source: Balkanu Cape York Development Aboriginal Corporation

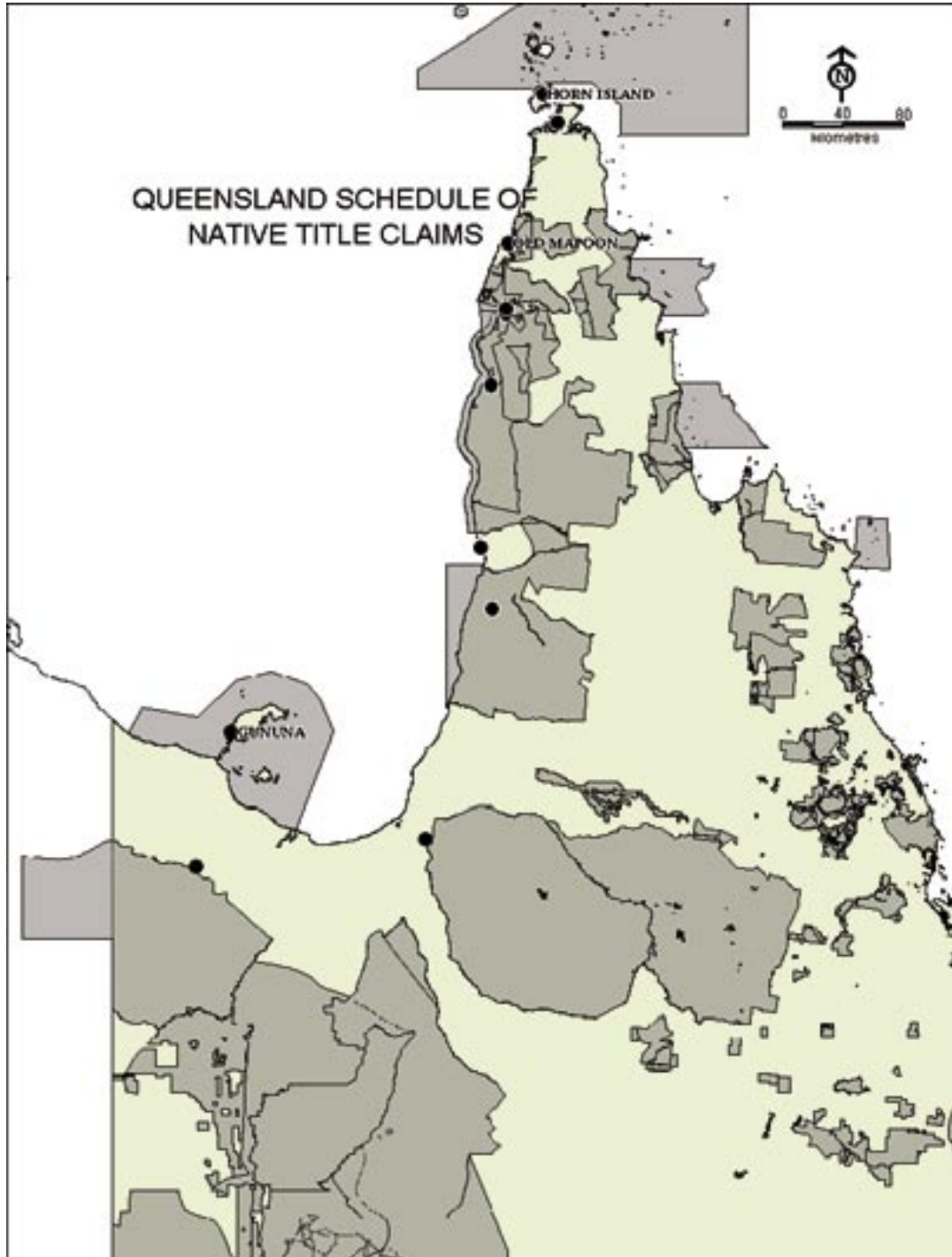


Figure 10c: Queensland Schedule of Native Title Claims

Source: Balkanu Cape York Development Aboriginal Corporation



SECTION 5: USING SEA COUNTRY

The previous sections make it clear that Aboriginal rights, interests and relationships regarding sea country involve much more than just the practical use of marine resources. Knowing about saltwater clan estates and moiety affiliations, conducting ceremonies, exercising customary authority, passing on cultural knowledge, travelling to cultural sites, relating creation stories and describing Dreaming tracks are all part of Aboriginal use of sea country. Justice Toohey, in his report recommending the closure of seas in the Milingimbi, Crocodile Islands and Glyde River area, took a broad view of Aboriginal use of the sea:

There is no reason why 'use' should be confined to temporal matters ... Movement of Aboriginal people for ceremonial purposes is, in my view, use of the seas within the paragraph [of the relevant legislation] (Toohey 1983).

Nevertheless, using saltwater resources through fishing, hunting and gathering is central to the activities, economy and identity of saltwater peoples in northern Australia (as elsewhere in Australia). This section will summarise available information about the use of marine resources in the Northern Planning Area.

Aboriginal marine resource use in the distant past

Campbell (1988) and Palmer (1998) note that there is relatively little documented information about Aboriginal use of marine resources prior to the era of coastal land and sea claims over the last 30 years, when compared with information relating to the use of resources on land. This can be partly explained by the flooding of ancient coastal occupation sites by the 100-metre rise in sea level that occurred between 20 000 and 6 000 years ago, which denies an archaeological window on the economies and resources of coastal Aboriginal societies earlier than 6 000 years ago. Flood (1983) concludes:

The drowning of the coastal plains must have had a profound impact on those who lived there, particularly as they had no means of knowing that the seas would

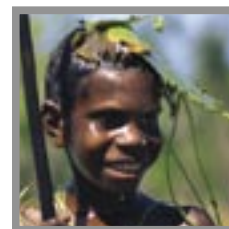
ever stop rising. As the world's ice melted and the oceans rose, not only were hills on the continental shelf transformed into islands, but immense areas were also submerged. About one seventh of the land mass of Greater Australia was inundated by the rising glacial melt-water ... Over 10 000 to 15 000 years, the average rise was between 1 and 3 centimetres a year, but the sea's advance was erratic. Sometimes it rose quickly, sometimes it stood still, and occasionally it even retreated. When the sea was rising most quickly, it could, within one generation, have drowned a strip of land over a hundred kilometres wide, which would greatly reduce a coastal tribe's territory.

Archaeological evidence from inland sites during this period, however, shows extensive use of freshwater fish and shellfish, so it is safe to assume that similar marine resources were used during this period (Flood 1983).

Archaeological evidence, in the form of cave paintings, tools, fish bones and mollusc shells, is available for the interval immediately after the period of rising sea level. Flood (1990) reports that in cave paintings from the Kakadu area, for example, boomerangs are replaced with spears with stone tips or multiple prongs, and shell middens contain species typical of mangroves and tidal mud flats. Flood (1990) emphasises that for many low-lying areas of northern Australia, the stabilisation of sea level about 6000 years ago did not necessarily mean an end to changes in coastal environments:

It seems that after the arrival of the sea and its fringing mangroves about 6000 years ago, the river banks gradually silted up and levees formed. Eventually the inflow of saltwater became blocked by levees, so that the areas behind them formed swamps ... [which] ... thronged with magpie geese, ducks, pelicans and myriad other birds ... [and] ... wild rice, waterlilies and large lotus lilies with their edible tubers ... and ... the spike rush.

Tidal fish traps, constructed using stone arrangements to trap fish in shallow lagoons with the falling tide, are found in most coastal and island areas of Australia, including within the planning area.



Aboriginal marine resource use since the arrival of Europeans

Earlier European explorers documented Aboriginal use of marine resources, including the use of fish traps. The Dutch explorer, William Dampier, who visited the Western Australian coast in 1688, describing Aboriginal food resources, remarked:

Their only Food is a small sort of fish, which they get by making Wares of Stone across little Coves or Branches of the Sea; every tide bringing in small Fish, and there leaving them for Prey to these people, who constantly attend there to search for them at Low-water (Dampier 1906).

Early anthropological research in Australia, however, did not focus on Aboriginal marine resource use, concentrating instead on kinship and belief systems, and issues relating to the land, which in part can be explained by the fact that the researchers themselves came from land-focused cultures (Palmer 1998). Some early observers did, however, document marine material culture, particularly Aboriginal use of canoes:

Maybe the exotic nature of a dug-out canoe or bark canoe captured the imagination of the early ethnographers. Whatever the reasons were, we probably know more about this aspect of the coastal Aborigines' material culture than any other facet of their maritime affairs (Palmer 1988).

The bark canoes, used largely for travelling over and gathering resources from inland waters and coastal swamps, required constant caulking with grass and mud, while the dugout canoes, used in coastal saltwater and to reach offshore islands, lasted much longer. As noted above, the dugout canoes were introduced to the Arnhem Land and Gulf of Carpentaria coasts by the Macassans. Outrigger canoes, which were used along the coast of eastern Cape York Peninsula, were not used in the Gulf or Top End (Palmer 1988).

Research on the maritime cultures of northern Australia gained momentum during the 1970s and 1980s. Though not limited specifically to the geographic locations of the Planning Area, the following summary by Palmer (1988) indicates the scope of work undertaken during this period:

In particular Betty Meehan has written a definitive account of the use of shellfish and other marine foods by a group of Aborigines with whom she worked in northern Arnhemland (Meehan 1982). Andersen (1982) describes in detail a maritime economic system in north Queensland. Petersen (1973) has studied camp site locations among coastal people. There have also been studies of seafood and diet undertaken by O'Dea and Sinclair (1982), carried out on the Kimberley coast of Western Australia. In addition, Crawford (1983) has written on Aboriginal exploitation of marine resources in the Admiralty Gulf area of the Kimberley region. Ohshima (1983a, 1983b) has studied the ecological and cultural diversity in Torres Strait in comparison of Australia and New Guinea cultures, as well as producing an account of land use and sea surface use amongst maritime people.

In addition to these ethnographic studies, researchers from other disciplines began to include northern coastal Aboriginal societies in their research. Altman (1987) undertook research into the economics of Gunwinggu society in western Arnhem Land, which provided detailed information on their use of marine species in economic, social and cultural terms. Heath (1980), working in south-east Arnhem Land, documented the complexity of a language developed by a maritime culture and containing a rich variety of references to the use of the sea.

More recently, documentation of Aboriginal use of the sea within the Planning Area has largely been associated with coastal land claims, sea closure applications and marine native title claims. Key issues relating to Aboriginal use of the sea that have emerged from research undertaken and statements made during these legal processes are summarised in the following subsections.



Sea closures

As noted above, there have been two sea closures granted within the Planning Area (Millingimbi and Howard Islands) and a third (Groote Eylandt) applied for but not proceeded with. The legislation governing sea closure determinations does not explicitly seek to determine the specific uses of the sea by Aboriginal people. Rather, the process seeks to explore whether use by other people interferes with the use of the sea by Aboriginal people, which is assumed to exist. Nevertheless, the research and proceedings associated with sea closure applications do provide a valuable source of information about marine resource use.

In his report prepared in support of the Groote Eylandt sea closure application Palmer (1983) explains the importance of the sea and coastal marine environment in the local Aboriginal economy. He notes that an earlier researcher (Worsley 1961) found that the Anindilyakwa people of Groote Eylandt are an ‘essentially coastal people’, despite the large inland areas of this large continental island, and that the importance of the sea is reflected in the local language which places the sea as

Table 6: Anindilyakwa saltwater environmental zones

Environmental zone	Anindilyakwa
Dune	<i>angwa</i>
Ti trees	<i>ayalyikwa</i>
Area behind mangroves	<i>milyakaura</i>
Mangroves	<i>anuma</i>
Sandy beach	<i>mijiyala</i>
Sandy mud	<i>yiningiyili</i>
Low tide level	<i>angwanta</i>
Fringing reef	<i>yarrimilya</i>
Sea	<i>Mukata</i>

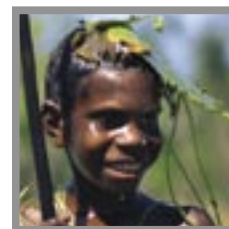
the directional point of reference. Palmer’s own research confirmed the relative significance of coastal/marine areas compared to inland areas, as summarised in Table 5.

Palmer (1983) reports that the Anindilyakwa people recognise and name nine environmental zones in their saltwater country, as indicated in Table 6.

Table 5: Reasons for using marine and coastal resources on Groote Eylandt

Palmer 1983

Attribute	Coastal/Marine	Inland
Travel	Walking is easy on the hard sand below the high tide line, and in the grassy dune area behind the beach. The beeches are exposed to the sea breezes.	Walking is difficult through the often thick undergrowth, with vines and thorny bushes. Walking is easier after fires, but the ground is often rocky. Inland areas are sheltered from the cooling coastal breezes.
Access to freshwater	Easily obtained behind the beach line.	Less readily available or reliable inland.
Mosquitoes	Less on the shore.	More inland.
Animal food	Most animals used for food are marine.	Few land animals used for food.
Seasonal availability	Marine food available in all seasons.	Land food more seasonally variable.



Marine food resources used by Anindilyakwa include:

- Dugong (*tununkulangwa*)
- Turtle (*yimenta*) – four species
- Turtle eggs (*yinamamuwa*)
- Stingray (*yananjarra*) – several species
- Fish (*akwalya*) – at least 14 species
- Shellfish (*atitira*) – at least 17 species

Palmer (1983) notes that in addition to food, the marine and coastal environments provide a variety of useful resources and services, including:

- Pigments from intertidal rocky platforms
- Sea water for boiling stingrays, turtle eggs and shellfish
- A transport medium
- Useful items of flotsam washed up on the tide.

In making his recommendation for granting the closure of seas in the Castlereagh Bay / Howard Island region of Arnhem Land, Justice Kearney (Kearny 1988) accepted that:

Mangrove worms, mudcrabs and shellfish are obtained from the mangroves; and mullet, barramundi, threadfin salmon, barracuda, long-toms, reef fish, stingrays, trevally, the black-tipped shark and turtles from the waters by the shore and reefs. Some 80 species of shellfish are commonly eaten by the Aboriginal people of this area. The sea is their main source of food in the Dry season; there are some 140 persons using the general area of the adjoining seas on a residential basis.

In the submission accompanying the application for closure of seas in the Crocodile Islands / Glyde River area near Milingimbi, the Northern Land Council (Yunupingu 1982) provided details of marine resources used by Aboriginal people of this area. The list included 34 species of shellfish, crustaceans and mangrove worms, 5 species of turtle, dugong and dolphins, and over 60 species of fish, stingrays and sharks. Research on the diet of a nearby coastal outstation (Meehan 1982) found that seafood contributes between 48% and 65% by weight of people's overall diet, depending on the season, comprising between 69% and 94% of the meat component of the diet.

Davis (1983) provides a summary of the seasonal variation in marine resource use within the Crocodile Islands and Castlereagh Bay area:

During the northwest monsoon of the wet season, which lasts approximately from December to March, shellfish form a major part of the daily Yolngu diet. At this time the seas may be quite rough, precluding line fishing. The rough seas and the heavy discharge of water from large estuarine systems also makes the spearing of fish and stingrays almost impossible. Yolngu therefore tend to move to areas which are sheltered from the northwest monsoons and are adjacent to inshore shellfish beds. At such times these shellfish beds, in association with mollusks from nearby mangal (mangrove) constitute a high proportion of the food resources taken from the sea.

The late wet season and early dry season see a revival in fishing, with barramundi specifically being hunted with spears across the totally inundated floodplains. Mud crabs are fat and turtles are also harvested.

*As the wind settles to the southeast during the dry season, which extends from approximately April to October, fishing with spears and lines, and turtle and dugong hunting become the primary activities of coastal hunting groups. By this time of year such activities are centred on the outer islands of the Crocodile Island group. It is during the mid-dry season that young sharks and stingrays are hunted with pronged spears. Stingrays, young sharks, fish, turtles and shellfish alike are judged by Yolngu to be significant and desirable food sources when they are possessing fat (*djukurrmirr*) although no satisfactory commonality has yet been established in the fat-producing nature of each species.*

Towards the end of the dry season, around November-December, the offshore reefs and sand-bars are heavily fished and gleaned for particular species of shellfish such as oysters. The beach areas of the islands are another significant locality for spearing fish at this time.

In each of the major seasons, campsite localities will be as closely allied to the hunting and foraging grounds as possible. Fresh water is a major inhibiting factor



PART A: USING SEA COUNTRY

to campsite location. Thus many sites may only be established as short duration hunting sites with small wells or soaks used to sustain the daily hunting party.

Affidavits made by Traditional Owners in 1997 in support of their current marine native title claim over seas around the Wellesley Islands in the southern Gulf of Carpentaria, refer to their continued use of the sea and its resources:

I still go out to my country whenever I can. I have a dinghy and outboard motor there. I leave it at the outstation. ... We get turtle, dugong, fish, big mud crabs, we go hunting every day (statement by Vernon Kelly).

When we go hunting we would get turtle and dugong. We would go right into the middle of the ocean. We could always see the land from where we were on the ocean. We always kept sight of land. Other Gangalidda people went way out into the sea hunting. You could only just see them from the shore when they were out there (statement by Bill Westmoreland).

We would catch crabs by putting a stick in the ground. We call that long stick gadjula. ... We would collect hermit snails to fish with. We would use them to catch small fish. ... We fish for barramundi, shark, stingray, salmon, butterfish, sandfish, mullet and all other kinds of fish. We fish for little black fish in season. Those black fish have to be cooked using tea tree wood. You cannot use any other wood. We would also catch crabs and oysters.

The dulnnu fish run in schools. We catch them in a net. You stand at the beach with the net in August time. You have to cook it with just that one tree, the tea tree wood. No other wood. If you use any other wood that dulnnu fish will not run any more. We put the bones in one heap. We do not throw them around. We know when the dulnnu are about to run because the wattle tree flowers then. If the fin of that fish pokes you, you get sick. It's very painful. You stop the pain by getting the slime off the fish body and rub it where is poked you.

September and October, that is the best season for turtle to come out. That is the big sea turtle. That is the time to go hunting for them. We get their eggs. We do not take a lot. We just take enough. The only time we take a lot is when there is a big camp there. Everybody might just have two eggs each. The other eggs we would leave in the nest so they can hatch and the young can go into the sea.

We would also collect shells. Gadma are shells shaped like ice cream cones. We would also catch dugong and turtle. We would catch both fresh and saltwater turtle. Women are not allowed to have dugong during period time. Women should not go near the sea during that time either. ...

Women do not eat rock cod too much because it makes baby soft. They cry too much. The mother cannot get up and walk away and do something because that child is crying all the time because she ate too much rock cod (statement by April Peters).

When we were growing up we ate fish, dugong, turtle – lots of turtle. Lots of food was there.

To catch turtle we would grab them. We would spear them and then grab them. We would be standing on a raft. Lots of people used to make the rafts. There were a lot of rafts in my father's country. We would put a grass sitting pad on top of the raft, instead of pillows. We didn't have dinghies then. You would be swimming along grabbing hold of the raft. People would call out as they were swimming to the raft.

We would travel to Nathayiiwind on the rafts. Lots of people used to do that. We would paddle out from Rukuthi to the islands.

We would paddle to Nathayiiwind through the night. We would paddle from Bentinck in the dead of night. We would paddle hard and couldn't sleep. You would get a sore shoulder. We couldn't see a lot but you would look back and you would see fires on the shores of Bentinck. You would come ashore at Nathayiiwind. We went to Nathayiiwind for turtle. A big group of walbus would paddle over there together. We didn't want to hang around for too long there. There was no water on that island. We would take a lot of water over with us. We would fill bailer shells and drupe shells with fresh water and take them with us.



We would use the tides to get around. Lots of tides would pull in different directions across there. One from the north. One from the west. We would leave Rukuthi on a tide coming from the east. We would head back to the mainland on a tide coming from the north.

On our way back, the raft was laden with food so it was hard work paddling back. Food was just turtle and eggs. We would get birds' eggs and turtle eggs. The birds were seagulls and terns. We wouldn't sleep at Douglas because it had no water. It was a long way to get there.

We also used to go to the two islands off Rukuthi. They are called Jawari and Dararabayi. We would go there for turtle and fish. We would also get diver birds there. You would catch the diver birds with a bark torch at night. The birds would be going towards the torch and you would hit them with a stick. Then you would have to go back southwards to Rukuthi. You always had to take a torch (statement by Pluto Bentinck).

My father spoke the Lardil language. He was a Lardil man. He was born at Namaringin on the banks of the Elizabeth River. They are all Laumben people there too. He was born there because his parents went hunting there. ... They went there hunting for dulnhu fish. It breeds up there at that country. Around August and October is the time that they run. That country is the main place they fish for that fish. They run right along the shore there.

You are not allowed to spear those dulnhu. That is Lardil law. You are only allowed to get those dulnhu with a net. When you cook them you can't break bone. If you break bone you don't get fish next day. When you get that fish only men and pregnant mothers eat that one first day, and the next day anyone can eat, but not too much. Those fish we cook with tea tree wood only. We still make bush net from grass but today we got white man net. We can use any net today (statement by Kenneth Jacob).

We fish and hunt with aluminium boats and outboard motors. Fishing and hunting is still how we survive. We catch fish and hunt so we can feed our families. We still live off the sea today (statement by Nelson Gavenor).

I am old but I still catch my food. They call me 'Super Girl' because I turned over a turtle not long ago. It was coming up from the southeast. I caught it on the beach where it was coming up to lay its eggs. I heard the redbill bird singing and I got up and went down to the beach. All the others were sleeping. When I turned the turtle over, I shouted out to them, 'Come on family, we have got meat down here.'

In the old days men were the ones who went out spearing on the walpus. Women would spear fish in fish traps or they would hit them with sticks. If there was a turtle in the fish trap, the women would turn it over. Outside the fish traps, the women would carry the torches while the men speared. We would call out, 'Hey, we got fish for dinner.' In the fish traps, we could walk around the water and clap on it to frighten the fish into the rocks. Widaa is a hole in the rock. The fish would go in there and we could put our hands in and grab them. Putting your hand in to grab the fish is called jaajaaj. When you grabbed it, you would hold it tight and hit it with a stick to kill it. The smaller ones you would bite their heads to kill them.

We got prawns in autumn. We would muddy the waters with leaves and grab them with our hands. We used poison branches called Jurrkaa. We made the poison from mangrove bark.

I know a lot of story places. I can sing and dance story places. The Wind story place is in my country. It kills fish and dugong. You dance to make wind come from the south. It feels cold and kills fish. I know how to dance up the wind by burning vine with seaweed. The vine is called kulurrulurr. You also have to dance to stop the wind. You throw seawater onto the burning vine to make it stop – it calms the sea (statement by Dawn Narantjil).

The Dulnhu fish run in season from August – they only run from south to north. They start from Mekiyan country. In that area running clockwise around the island – you catch it with a net. Two men got to handle the net. We have 6 or 7 nets beside each other. From August to October the fish run. You can't have pregnant women on the beach when waiting for fish. We have a



'lookout' a couple of hundred yards from where main cooking camp is – have a lookout man ... watching out for fish to come along. When fish come men straightened up and down – when fish are coming he stands on one leg to indicate which way fish are coming and when they pass him he puts his knee up (other side knee) so people know. You can't point or talk. If you point, the fish will run away. No pregnant women eat this fish catch. People wait at home for fish. Not where it's being cooked. Got to wait for the second catch. When fish are caught they get put in bailer shell and fried. You have to dig a deep hole when gutting fish – dig deep so dogs can't get it – it's poisonous for dogs. It's the bladder that's poisonous. Then put fish guts into the bailer shell. Don't break the bones. The dulnhu won't run if you break bones. We use special wood – tea tree (statement by Andrew Marmies).

We just take what we need. Not like Whitefella fishing operators. They kill heaps more than they actually need. It is a big waste. Like those fish traps, you've got to run those properly and make sure there is no waste, you let those little fish out and get just what you need, for your family. You can't just go into anyone's fish trap and help yourself. In those early days you'd get a spear in the guts, straight away. ...

When I go fishing with young fellas I lay the law down. You can't throw rubbish in the water, you'll see that Rainbow. I have to warn these young fellas not to do certain things, those are the things, those are the things you have to do (statement by Michael Booth).

If someone comes to Gangalidda seas and gets turtle, they should give some of that turtle to the people from that area. If people want to fish or crab that's alright as long as they get permission. If they get a lot they have to share with the owner mob. It is the same thing if I went to Bushfire country. That is Gangalidda country but belongs to Alan Ned and his family. They could block me on their country if they wanted to. I have to ask them to go there. If they came to proper story country they would have to ask permission. If they are married to our mob it is alright.

If a Lardil fella or some other fella catches turtle or anything else on Gangalidda country without asking, we can hunt him off. If I catch them doing the wrong thing or they do not share I will cut his net or rope to the boat and let it drift or tell them to leave.

It is the same for white people. You have to ask even to set an anchor or pass through. It is the same whether we are using the sea at the same time or not. We are responsible for those waters. Under Gangalidda way we control what happens in them. We also have to make sure that those seas can still feed us (statement by Reggie Robertson).

I used to paddle around in canoes and then we bought dinghies. I had one and used to catch fish around Andrew Island, Denham Island, Dugong River and in the channel. We would always share the fish with the old people from that place. The proper Lardil law is that they should give to the people on whose country they caught the tucker.

We live on the sea, dugong, turtle, fish. That's always been the way. We have to look after that sea to make sure we can still survive and can feed our families (statement by Clara Reid).

Indigenous Fishing Survey

The National Recreational and Indigenous Fishing Survey of Australia (NRIFS) commenced in May 2000 and was conducted for 12 months through a screening survey and diary survey of intending fishers. The survey was the first attempt to obtain detailed information on the nation-wide catch and fishing effort of Australian recreational and Indigenous fishers. It was funded under the Fisheries Action Program of the Natural Heritage Trust, by the Commonwealth and State Governments through the Fisheries Research and Development Corporation (FRDC), and State contributions (AFFA 2003).

In southern Australia Indigenous people were surveyed by telephone as part of the general telephone survey, but in northern Australia face-to-face household surveys were conducted in selected communities. Forty-six Indigenous communities across the top of Australia from Broome to Cairns agreed to participate in the survey, approximately half of whom were located within the Northern Planning Area. Summary data of Indigenous fishing activity across the whole Top End was released as part of the NRIFS



final report (Coleman et al. 2003), while data from individual communities or sub-regions has not yet been released. Though the survey results include information from communities across northern Australia, the summary data provides the best available quantitative analysis of Indigenous marine resource use within the Planning Area. The gross figures for total catch, number of fishers, etc. are obviously larger than would be the case for the Planning Area only, but the percentage figures are likely to be applicable to the Planning Area.

The Indigenous Fishing Survey has shown that in the twelve months prior to interviews (held between April and November 2000) an estimated 37 000 Indigenous people, or 91.7% of the Indigenous population, aged five years or older and living in communities in northern Australia, fished at least once. The data indicate that, during the one-year survey period, the Indigenous fishers went on 671 000 fishing trips and harvested the following quantities of seafood:

- 0.91 million finfish
- 0.98 million small baitfish
- 0.18 million crabs and lobsters
- 0.66 million prawns and yabbies
- 1.15 million molluscs
- 0.93 million miscellaneous species.

During these fishing trips, the following items of equipment were used:

- 53% of indigenous fishers used lines to fish
- 26% hand collected
- 12% used nets
- 9% used spears.

Figure 11 shows the estimated numbers of Indigenous fishers in Queensland, Northern Territory and Western Australia.

Figure 12 shows that these estimates of Indigenous participation in fishing, hunting and gathering of aquatic resources represent approximately 92% of the Indigenous population over the age of five. This compares with an estimated fishing participation rate of 19.5% for the total Australian community over the same period.

Analyses of the species composition, water body type and fishing method of the total Indigenous harvest of approximately three million marine organisms are shown in Tables 7, 8 and 9.

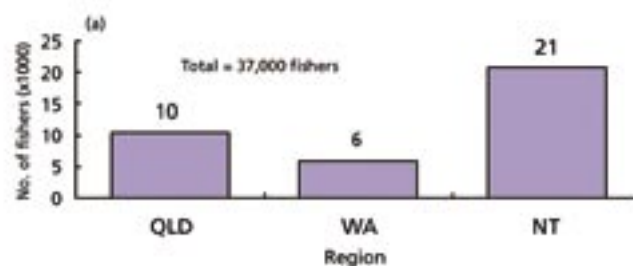


Figure 11: Fishing participation (number of people) by region, for Indigenous fishers aged five or older and living in communities in northern Australia

Source: Coleman et al. 2003.

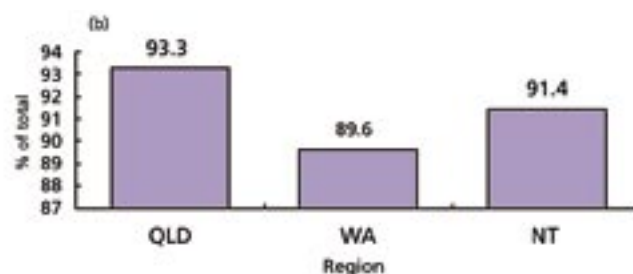


Figure 12: Fishing participation (proportion of the population) by region, for Indigenous fishers aged five or older and living in communities in northern Australia

Source: Coleman et al. 2003



Table 7: Estimated annual harvest (numbers) for key species taken by Indigenous fishers aged five years or older and living in communities in northern Australia Source: Coleman et al. 2003

Species/species group	QLD	WA	NT	Total
Mullet	68 573	30 415	83 277	182 265
Catfish	21 738	26 920	60 831	109 489
Sea perch/snappers	38 200	18 645	27 588	84 434
Bream	44 205	9 387	17 876	71 469
Barramundi	5 745	13 318	44 134	63 197
Grunters/trumpeters	15 116	33 938	8 195	57 249
Trevally	21 494	10 369	8 241	40 104
Threadfin salmon	11 950	8 980	8 565	29 495
Wrasse/tuskfish/groper	9 181	11 301	8 778	29 260
Garfish	26 169			26 169
Whiting	19 879	5 450	770	26 099
Cod (various)	11 679	2 748	4 254	18 681
Sharks/rays	3 819	2 011	12 464	18 294
Australian bass/freshwater perch	612	1 205	12 789	14 606
Emperors	9 268	3 417	612	13 297
Coral trout	7 004	79	792	7 875
Rock-cod/groper		4 530		4 530
Red emperor	1 207	90	3 210	4 508
Mackerel	2 382	424	1 416	4 222
Butterfish	2 189	1 072		3 261
Flathead	2 384	168		2 552
Tuna/bonitos		335	1 420	1 755
Pike	972	148	467	1 586
Redfish	795	543		1 338
Other finfish	21 842	12 684	63 619	98 145
Herring/pilchards	3 545	2 866		6 411
Small baitfish	71 012	5 085	15 314	91 411
Blue swimmer crab	882	592	646	2 119
Crabs (other)	2 345	9 668	44 146	56 159
Lobsters	12 903		1 321	14 224
Mud crab	12 874	9 015	86 573	108 462
Crayfish (freshwater)	2 276		4 220	6 496
Macrobrachium/cherabin		512 413	4 101	516 514
Prawns (saltwater)	131 158	395	880	132 432
Bivalves (other)		17 264	215 586	232 850
Mussels	3 499	1 834	581 126	586 459
Oysters	34 615	22 995	56 389	113 999
Pippi/Goolwa cockle	71 607			71 607
Crocodile		388		388
Dugong	1 293	30	296	1 619
Turtle eggs	3 976	1 051	37 282	42 309
Turtle – longneck	1 214	289	2 454	3 957
Turtle – saltwater unspec.	3 851	979	1 624	6 455
Turtle – freshwater unspec.	3 243	1 496	9 765	14 504
Worms, mangrove			14 361	14 361

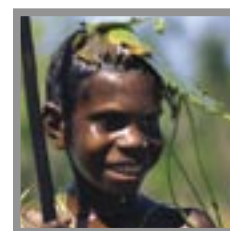


Table 8: Estimated annual harvest (numbers) for key species taken by Indigenous fishers aged five years or older and living in communities in northern Australia, by water body type

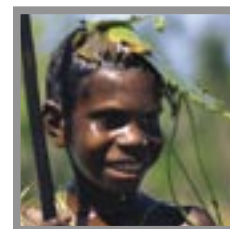
Source: Coleman et al. 2003

Species/species group	Offshore	Inshore	Coastal	Rivers	Lakes/ Dam	Total
Mullet		141 620	32 796	7 353	496	182 265
Catfish		21 865	24 657	51 094	11 873	109 489
Sea perch/snappers	13 219	55 620	15 595			84 434
Bream	1 232	33 909	35 604		723	71 469
Barramundi	1 213	9 032	9 740	29 944	13 268	63 197
Grunters/trumpeters	256	3 453	9 091	44 208	241	57 249
Trevally	2 794	22 286	15 024			40 104
Threadfin salmon	138	16 697	12 661			29 495
Wrasse/tuskfish/groper	4 405	22 449	2 337	69		29 260
Garfish		11 512	14 657			26 169
Whiting		20 854	5 245			26 099
Cod (various)	2 603	9 846	6 232			18 681
Sharks/rays	421	9 763	5 508	2 602		18 294
Australian bass/perch				12 142	2 464	14 606
Emperors	4 186	7 927	1 184			13 297
Coral trout	3 477	4 318	80			7 875
Rock-cod/groper		4 530				4 530
Red emperor	1 246	3 262				4 508
Mackerel	1 224	2 692	306			4 222
Butterfish		1 642	1 619			3 261
Flathead	80	1 895	577			2 552
Tuna/bonitos	1 420	276	59			1 755
Pike	80	1 334	173			1 586
Redfish	844	444	49			1 338
Herring/pilchards		4 856	1 555			6 411
Small baitfish	969	35 829	31 923	14 420	8 270	91 411
Blue swimmer crab		1 881	239			2 119
Crabs (other)		49 633	5 838	689		56 159
Lobsters	10 633	3 592				14 224
Mud crab	233	71 081	37 147			108 462
Crayfish (freshwater)				6 496		6 496
Macrobrachium/cherabin		777		278 492	237 245	516 514
Prawns (saltwater)		87 385	44 634		414	132 432
Bivalves (other)		176 591	56 259			232 850
Mussels		332 602	252 178	1 679		586 459
Oysters		91 591	22 408			113 999
Pippi/ Goolwa cockle		71 607				71 607
Crocodile			99	289		388
Dugong	650	969				1 619
Turtle eggs		40 366	1 943			42 309
Turtle – longneck				2 992	965	3 957
Turtle – saltwater	2 959	3 011	484			6 455
Turtle – freshwater				9 851	4 652	14 504
Worms – mangrove		9 699	4 662			14 361



Table 9: Estimated annual harvest (numbers) for key species taken by Indigenous fishers aged five years or older and living in communities in northern Australia, by fishing method Source: Coleman et al. 2003

Species/species group	Line	Pots/ Traps	Nets	Spears	Diving	Hand	Total
Mullet	12 918		158 053	10 571		723	182 265
Catfish	98 361		7 387	3 741			109 489
Sea perch/snappers	79 873		2 454	2 106			84 434
Bream	67 451		3 338	679			71 469
Barramundi	54 186		2 600	6 410			63 197
Grunters/trumpeters	54 097		3 153				57 249
Trevally	36 259		2 131	1 713			40 104
Threadfin salmon	24 144		4 252	1 100			29 495
Wrasse/tuskfish/groper	28 454			805			29 260
Garfish	16 798		9 371				26 169
Whiting	11 096		14 685	318			26 099
Cod (various)	17 475		477	729			18 681
Sharks/rays	9 004	47	2 009	7 233			18 294
Australian bass/perch	10 051	2 068	2 239	248			14 606
Emperors	13 297						13 297
Coral trout	6 890		80	905			7 875
Rock-cod/groper			4 530				4 530
Red emperor	4 269		239				4 508
Mackerels	4 079		48	95			4 222
Butterfish	2 555		705				3 261
Flathead	1 400		834	318			2 552
Tuna/bonitos	1 755						1 755
Pike	1 178		361	47			1 586
Redfish	1 338						1 338
Herring/pilchards			6 411				6 411
Small baitfish	18 716	1 090	71 260			345	91 411
Blue swimmer crab			159	78		1 883	2 119
Crabs (other)	239	976	3 209	175		51 561	56 159
Lobsters				3 187	11 038		14 224
Mud crab	7 744	4 753	3 417	29 345		63 203	108 462
Crayfish (freshwater)	3 944	2 276				276	6 496
Macrobrachium/cherabin	5 508	2 218	507 597			1 191	516 514
Prawns (saltwater)	395		131 572	466			132 432
Bivalves (other)						232 850	232 850
Mussels						586 459	586 459
Oysters						113 999	113 999
Pippi/Goolwa cockle						71 607	71 607
Crocodile	388						388
Dugong				1 619			1 619
Turtle eggs						42 309	42 309
Turtle – longneck	2 528	194		477		758	3 957
Turtle – saltwater	178			6 227		49	6 455
Turtle – freshwater	11 617			1 991		896	14 504
Worms – mangrove						14 361	14 361



The survey found (Figure 13) that the greatest Indigenous fishing effort focused on saltwater environments, including estuarine, coastal, inshore (less than 5 km from the coast) and offshore (greater than 5 km from the coast). The total saltwater fishing effort across the survey area was 71%, while in Queensland it was 90% and in the Northern Territory 72%. The differences between the Queensland and Northern Territory figures can be explained by the fact that most of the Indigenous communities in north Queensland are on the coast, while many in the Northern Territory are inland.

As indicated in Figure 14, the survey showed that just 55% of Indigenous fishing events occurred using lines, compared with a national Australian rate of 85%. The second most common method of Indigenous harvesting was by hand gathering (26%), reflecting the large number of molluscs and other invertebrates that contribute to the Indigenous harvest. This compares with a national figure of 1% aquatic resource-harvesting by hand.

The northern Australia *Indigenous Fishing Survey* confirmed that saltwater resources are fundamental to the lives and economies of coastal Indigenous communities in the Planning Area. The key findings of the survey can be summarised as follows:

- Over 90% of Indigenous people are involved in aquatic resource harvesting.
- Most of this harvesting effort takes place in saltwater environments.
- There is a huge diversity of aquatic species harvested.
- Line fishing and hand gathering are the two most common fishing methods.

Dugong and turtle

Aboriginal hunting of dugong and turtle provides an insight into the complexity of the relationship between Aboriginal people and sea country resources more generally. Dugong and turtle are hunted for food, but they are also important components of Aboriginal cosmology, belief systems, identity and environmental knowledge. The following discussion of Yanyuwa use, knowledge and beliefs relating to dugong and turtle is based on Bradley (1991) and gives an indication of the complexity of the relationship that is characteristic

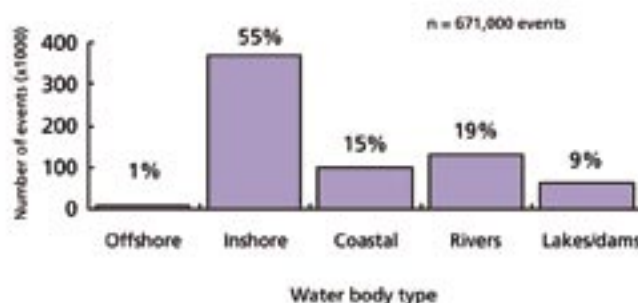


Figure 13: Annual fishing effort (events) by water body type for Indigenous fishers aged five years or older and living in communities in northern Australia
Source: Coleman et al. 2003

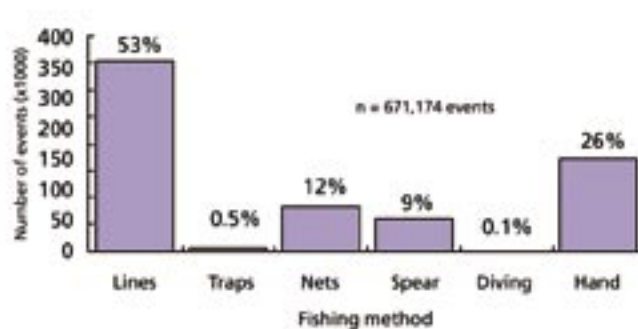


Figure 14: Annual fishing effort (events) by fishing method for Indigenous fishers aged five years or older and living in communities in northern Australia
Source: Coleman et al. 2003

across the Planning Area. It should be noted, however, that not all coastal environments in the Planning Area are suitable dugong and turtle habitats, hence interaction between Aboriginal people and these animals varies from location to location.

The technology and practices associated with dugong and turtle hunting provide examples of both cultural change and cultural continuity associated with the usage of marine resources, as indicated in Table 10.



Table 10: Continuity and change in dugong hunting (derived from Bradley 1991)

Hunting practice	Before	Now
Who hunts?	Men only	Men only
Equipment	~ Wooden spear with wooden tip ~ Rope attached to harpoon made from pandanus bark	~ Wooden spear with metal tip ~ Rope made from nylon or hemp
Hunting platform	~ Bark or dugout canoe ~ Wooden float attached to rope and always used	~ Aluminium dinghy ~ Wooden float always carried but only used if outboard motor fails
Harpoon strikes	~ Two harpoon strikes on each animal	~ Two harpoon strikes on each animal
Hunting rule	~ Must be silent, not break sticks, not touch greasy food	~ Must be silent, not break sticks, not touch greasy food
Selection of dugong	~ Preferred target animals are young males, pregnant females and females with calf. Older males are avoided.	~ Preferred target animals are young males, pregnant females and females with calf. Older males are avoided.

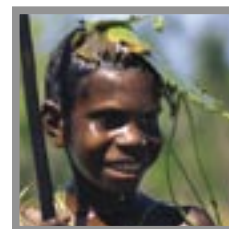
Bradley (1991) describes a typical dugong hunt as follows:

When the hunters reach the area in which they wish to hunt, they scan the water for dugong surfacing to breathe, for muddy water which has been caused by these animals feeding, or for broken pieces of floating seagrass and excreta. It is these signs which make visible and meaningful tracks to the hunter.

When the animal is located, the skill of the boat's 'driver' (wuliyi/wungkayi) is crucial. He has to follow the hand signals given by the harpooner and manoeuvre him within range to spear the animal. This is often difficult as he must keep pace with the dugong which can swim at speeds of 10-12 knots for short periods. ... In shallow water the dugong can be tracked by the wake which is caused by the upward and downward movement of the tail, producing a series of flat circles on the surface of the water (Marsh et al. 1981). ...

When a dugong has been speared once it usually tires quickly; it is then brought into range once more and speared again. The hunter usually tries to place one harpoon in the region of the neck and another in the lower back region. After the animal has been speared twice the dugong is pulled alongside the boat. In Yanyuwa this action is called lhungkayarra. The dugong is grabbed by the tail and a noose is placed around it, just below the flukes. The animal is turned around so its stomach is facing outwards. Its tail is braced against the gunwale, forcing its head under the water and drowning it.

In past times when Yanyuwa hunted dugong from bark canoes the dugong was not drowned alongside the canoe for fear that the struggling animal would damage the frail craft. Instead the dugong was brought within a short distance of the canoe and then the hunter swam out to the dugong and plugged the dugong's nostrils with paperbark or even his own fingers, and he stayed with the dugong until it drowned.



From the moment a dugong is speared until it is drowned no talking takes place. It is believed that talking while the dugong is dying is a sign of great disrespect, and if someone does talk while the dugong is being pulled alongside the boat, the spirits who guard the dugong will come and remove the harpoon points. ...

When a dugong is brought back to land for butchering, its head must be faced back in the direction of the sea. This is to enable the spirit of the dugong to return to the sea. This is an act of great importance to the Yanyuwa people and is called ki-maramangku, which can be literally translated as 'returning the one belonging to the sea-grass'.

Sea turtles are hunted in a similar manner, but some of the characteristics of turtles makes them more difficult prey, as Bradley (1991) explains:

Sea-turtles can at times prove more difficult though due to the animals' keen eyesight and the length of time they can remain submerged. The harpooned sea-turtle will often swim under the boat, making it harder for the driver of the boat to place the harpooner in an ideal position to harpoon it for a second time. When the sea-turtle has been harpooned twice it is pulled alongside the boat and taken hold of by the front flippers. If the sea-turtle is relatively small it is pulled directly into the boat; if it is very large and heavy it is tied to the side of the boat by the front flippers with its head above the water line. This is to ensure that the sea-turtle does not drown. The Yanyuwa believe that if they let the sea-turtle drown they will have great difficulty in finding and catching them when they go hunting again. With the sea-turtle secured either in or alongside the boat it is taken back to land for killing, cooking and butchering.

Dugongs are butchered prior to cooking, while turtles are cooked whole and then butchered once the animal has cooled. The methods of butchering both animals, and the distribution of meat are strictly laid down by Yanyuwa tradition, and are followed to greater or lesser extent today. Bradley (1991) observes that the ability to store meat for long periods in refrigerators has led to some apparent abuse of these traditional rules regarding distribution.

Dugong and turtle maintain their status as mythological beings for Yanyuwa and other Aboriginal people in the Planning Area. There are dugong Dreaming sites and stories, and places known as increase sites where

ceremonies are conducted to ensure the well-being of the species. Some sites are rocks that represent stranded mythological dugongs, while other sites are associated with hunting camps, butchering locations or places where dugong and turtle are eaten.

There is little quantitative information available regarding Indigenous harvest of turtle and dugong in the Planning Area (Parks and Wildlife Service 2003). However, research in the Borroloola region (Bradley 1997, Coates 2002) indicates that the harvest of 40 to 50 dugongs per year in that area is well below the estimated maximum sustainable harvest of 400 animals per year, out of an estimated total local dugong population of 8000 (Marsh et al. 1994, Saalfeld 2000). The Northern Territory Management Program for Dugong (Parks and Wildlife Service 2003) proposes further consultations with coastal Aboriginal groups to ensure sustainable utilisation of dugongs throughout Northern Territory waters.

The Northern Land Council (2003) has criticised the approach taken in the Northern Territory Management Program for Dugong, on the grounds that the Program:

- Does not expressly recognise the right of Traditional Owners to continue their customary and sustainable harvest of dugongs;
- Implies that Aboriginal hunting of dugongs is a 'threat' rather than part of a complex and long-standing relationship between Traditional Owners and dugong;
- Refers to consultations with Traditional Owners, rather than a commitment to respecting and negotiating their role in dugong management;
- Does not recognise the statutory role of Land Councils in the Northern Territory in land and environmental management;
- Does not recognise the Land Councils' long-standing work in supporting the establishment and operations of Aboriginal land and sea management agencies.



The Northern Land Council has proposed the following measures for dugong management in the Northern Territory:

- *A high degree of Aboriginal autonomy and decision making in relation to land and sea management*
- *Measures which address Dugong management under or within a framework of holistic land and sea management*
- *Negotiations rather than consultation with Aboriginal communities and their representative bodies*
- *Acceptance of the need to acknowledge the limitations of and facilitate development of overall capacity at the local level. This includes consideration of resourcing land and sea management in local areas so as to provide basic equity in engagement between government agencies' priorities and Aboriginal priorities (Northern Land Council 2003).*

The roles of land councils in representing the interests of Traditional Owners in environmental management differ between the jurisdictions in the Planning Area. In the Northern Territory, the Northern Land Council has a statutory role under Section 23 (4) of the *Aboriginal Land Rights (Northern Territory) Act 1976* to adequately consult with both Traditional Owners of a particular area and any Aboriginal community or group that may be affected by a proposed action on that land (including intertidal land). In this context, 'Traditional Owners' means a local descent group of Aboriginals who:

- have common spiritual affiliations to a site on the land, being affiliations that place the group under a primary spiritual responsibility for that site and for the land; and*
- are entitled by Aboriginal tradition to forage as of right over that land.*

In Queensland, land councils do not have this formal statutory role under either State or national legislation, though they are increasingly recognised by government agencies and other organisations as being regional representative organisations to facilitate engagement with Traditional Owners. In both jurisdictions land councils are Native Title Representative Bodies under the *Commonwealth Native Title Act 1993 & 1998*, and hence

act on behalf of native title holders in pursuing native title claims, and in facilitating the involvement of native title holders in negotiations about land and sea prior to a native title determination.

Statutory recognition of Indigenous marine resource use rights

The Northern Territory *Fisheries Act 1995* recognises an Aboriginal right to fish 'in a traditional manner'; Section 53 (1) states:

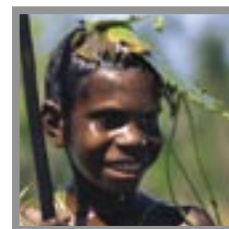
Unless and to the extent to which it is expressed to do so but without derogating from any other law in force in the Territory, nothing in a provision of this Act or an instrument of a judicial or administrative character made under it shall limit the right of Aboriginals who have traditionally used the resources of an area of land or water in a traditional manner from continuing to use those resources in that area in that manner.

Section 53 (2) of the *Fisheries Act* specifies that this fishing right is a non-commercial right and does not include the authority to interfere with the fishing activities of others:

Nothing in subsection (1) shall authorize a person to enter any area used for aquaculture, to interfere with or remove fish or aquatic life from fishing gear that is the property of another person, or to engage in a commercial activity.

However, Section 183 of the *Fisheries Act Regulations* provides a limited form of Aboriginal commercial fishing right through Aboriginal coastal licences, which enable a resident of an Aboriginal community to catch fish for sale within that community. Limitations on the scope of these licences include the following:

- Only one licence is permitted per community
- Approval of the local Aboriginal Community Council is required
- Only amateur fishing gear can be used
- Only 'non-managed' species can be taken – which means that commercially valuable species such as barramundi, Spanish mackerel and mud crab cannot be taken using an Aboriginal Coastal Licence
- An Aboriginal coastal licence cannot be held in conjunction with a commercial fishing licence.



Ganter (1997) notes that the purpose of a Community Coastal Licence is to encourage economic activity within an Aboriginal community in a way that is consistent with 'a notion of traditional economic activity'. This appears to be an acknowledgement of trade in marine resources as an integral part of traditional Aboriginal economies, without allowing that tradition to extend into the realm of contemporary commercial fisheries. Marine native title judgments to date have upheld the non-commercial nature of Aboriginal rights in the sea, but, as Ganter (1997) has acknowledged, this distinction is a contentious one which continues to be tested in the courts. Jackson (1997) contrasts the recognition of fishing rights in Australia with recognition in Canada, the USA and New Zealand, where treaties – and legal decisions based on those treaties – have resulted in more substantial Indigenous commercial fishing rights.

Cordell (1991) reviewed Aboriginal commercial fishing enterprises in the Northern Territory dating back to the 1950s, noting that several were successful for a time, but then failed as a result of withdrawal of critical support from government agencies or industry partners. Other commercial ventures did not succeed because of inappropriate, top-down planning and inadequate consultation and involvement of Aboriginal communities.

In Queensland the *Fisheries Act 1994* recognises a limited right for Aboriginal and Torres Strait Islander peoples to take fisheries resources in accordance with tradition and custom, while also providing the authority to the fisheries agency to manage the exercise of traditional or customary fishing rights (Sutherland 1996). The act provides that:

14(1) An Aborigine may take, use or keep fisheries resources, or use fish habitats, under Aboriginal tradition, and a Torres Strait Islander may take, use or keep fisheries resources, or use fish habitats, under Island custom.

14(2) However, subsection (1) is subject to a provision of a regulation or management plan that expressly applies to acts done under Aboriginal tradition or Island custom.

14(3) A regulation or management plan mentioned in sub-section (2) may be developed only after cooperating with Aborigines or Torres Strait Islanders, considered by the fisheries agency to be appropriate, to reach agreement, or reasonable attempt to reach agreement, about the proposed fisheries plan.

To date no management plans have been developed to regulate Indigenous fishing in Queensland, though several local initiatives have been taken to involve Indigenous people in fisheries management, and enhance their involvement in commercial fisheries.



SECTION 6: MANAGING SEA COUNTRY

This section summarises past and current mechanisms to recognise Aboriginal rights and responsibilities in the management of sea country within the Northern Planning Area. As indicated in Section 4, Traditional Owners have engaged with government agencies over a long period to improve recognition of Aboriginal rights and interests in sea country, without yet achieving satisfactory arrangements.

Aboriginal management of sea country

Prior to British colonisation of northern Australia, and the subsequent introduction of fisheries legislation and other government marine-management mechanisms, Aboriginal marine environmental and resource management involved the control of human access to sea country estates and resources. Ceremonial activities aimed at maintaining the well-being of habitats, species or both were also part of marine resource management.

Particular aspects of pre-colonial mechanisms differed from place to place. The range of management tools and approaches in all coastal areas are summarised in the following extract from Smyth (2001):

Aboriginal peoples' relationship to their sea country brought with it a complexity of rights and responsibilities, including the right to access, use and distribute resources, and the responsibility to manage those resources through time, from generation to generation. Clan members were owners of their country, they belonged to their country, they were identified with their country and they were stewards or carers of their country

Marine environments were managed through a variety of strategies and cultural practices, including:

- Conduct of ceremonies (songs, dances, story telling and other rituals) with the purpose of nurturing the well-being of particular places, species and habitats;

- Control of entry into marine clan estates by outsiders – restricting resource use to clan members and others by agreement;

- Seasonal exploitation of particular marine resources; the opening and closure of seasons were marked by ecological events, such as the flowering of particular plants or the arrival of migratory birds;

- Restriction on the harvesting of particular species based on age, gender, reproductive conditions, health, fat content etc. of individual animals;

- Restrictions on resource use and distribution by clan members and others based on age, gender, initiation status, marital status and other factors;

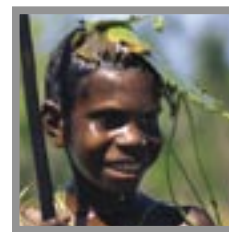
- Restrictions on the use of particular animals and plants of totemic significance to individual clans; each clan usually identified closely with at least one natural element (usually animal or plant), the use of which was often highly restricted or prohibited;

- Prohibition of entry to certain areas on land and sea, often associated with storms or other sources of danger; entry and/or hunting and fishing in these areas was believed to cause severe storms or other forms of danger, not only to the intruders but also to other people in the region.

Together these strategies and practices resulted in a system of marine exploitation which was conservative, which enabled the local population to live within the carrying capacity of the local environment and to adapt to environmental change over time.

Aspects of these Aboriginal management mechanisms have continued to operate to the present day, though with little or no formal recognition by government management agencies. Strategies employed by saltwater people to maintain these cultural sea country management mechanisms include:

- Agreement between neighbouring Traditional Owner groups to respect each other's saltwater estates and access protocols
- Agreement by some non-Indigenous people to respect Aboriginal authority over access to their sea country estates



- Direct action by some Traditional Owners to exercise their customary authority over access by outsiders to their sea country estates
- Strategic planning by some Traditional Owner groups to gain recognition of their customary authority over their sea country estates
- Development of the capacity to assert management over sea country through the establishment of Aboriginal land and sea management agencies
- Training and employment of Community Rangers to manage saltwater country, including involvement in coastal and marine research projects
- Statutory recognition of Indigenous rights to marine resource use
- Participation in consultative arrangements with government agencies
- Development of dialogue and partnership arrangements with commercial fisheries and other marine industries
- Engagement with government strategic planning initiatives
- Assertion of Traditional Owner authority over saltwater country through art, music, stories, dance and other forms of public communication.

Examples of each of these mechanisms is provided below.

Agreement between neighbouring Traditional Owner groups

Evidence brought before the inquiries that led to the two sea closures in the Northern Territory (Toohey 1983, Kearney 1988) confirmed that Traditional Owners of neighbouring sea country estates continued to recognise their respective authority, particularly by seeking permission before entering each other's areas. The recognition and exercise of customary authority within Aboriginal communities has not been lost as a result of the application of Australian common law principles of open access to the sea.

On numerous occasions I noticed that, as amongst themselves, the people of Milingimbi would consult with the known traditional owners and custodians about any proposed visits they intended to make to the area. I do not know of cases where permission was not sought ... (statement by Roger Sigston, quoted in Kearney (1988)).

The continuing application of these customary protocols was confirmed more recently in the statements made by Traditional Owners in the Wellesley Islands marine native title claim, as indicated by the following extracts:

We have rules about permission for travelling on people's country. If people see strange people around their country there may be a tribal fight. You have to get their permission first (statement by Vernon Kelly).

In Yangkaal law if you go hunting in someone else's country then you should come back and share with Dulmada people ... The sea is part of our country so the same rules apply. Same for Lardil sea. If you want to fish in that area, you have to get permission from Dulmada. It is the same again in the Gangalidda sea (statement by Nelson Gavenor).

A person does the wrong thing if they go to Barardkiya without asking. They cannot go fishing or hunting without asking. That's the same whether they are Lardil, Garawa, Gangalidda or a whitefella ... We usually do not have any problem with people going to our country without asking. Most people know they have to ask. When they ask we let them go fishing. We also make people who fish in our country give us some of the catch. It would be wrong in our law if they didn't. We call it wanangalkara. It means 'don't share tucker' (statement by Joseph Watt).

Acknowledgement by non-Indigenous people

On many Aboriginal Communities there are well-established protocols whereby non-Indigenous residents seek permission from Traditional Owners before visiting their country, including sea country. In return for permission to access country, it is usually expected that the visitors will share their catch with the Traditional Owners. These protocols may not have



statutory authority, but they do represent contemporary expression of customary law, as well as practical management of sea country resources. The following extracts from sea closure inquiries and marine native title claims describe the application of these protocols:

Earlier this year some whitefellas asked us whether they could go fishing on our country. We gave them permission. They shared their catch with us. They gave us crab and they gave us fish. They were working on the island. They did the right thing (Joseph Watt, Wellesley Islands marine native title claim).

When they get a new lot of teachers and nurses to the island, we do our best to make sure they know the rules when they arrive. We also rely on Europeans, other teachers and nurses, who are here to pass on that knowledge of whose country when they arrive (Andrew Marmies, Wellesley Islands marine native title claim).

For European people, like myself, a system of seeking permission from traditional owners has always existed in my time at Milingimbi ... Usually a custodian or someone else would travel with anyone going [to Howard or Banyan Islands or the Woolen River] (statement by Roger Sigston, quoted in Kearney (1988)).

Direct action by Traditional Owners to exercise their customary authority

Despite the lack of statutory recognition of Aboriginal peoples' authority to control access to their sea country and resources, Traditional Owners continue to take practical steps to exercise their authority in these matters. No data is available on the extent of such direct action, but it is clearly an active form of sea country management in some areas. The following extracts from the Wellesley Islands marine native title claim process provide some recent examples:

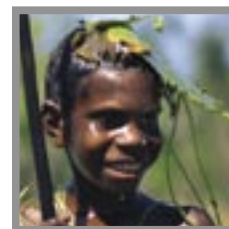
One time my husband and Billy Dundaman took spears and a knife and waited for the fishermen. They were waiting in the mangroves in McKenzie Channel. Three men and two little boys came in a boat. May was hiding

near the point. She shouted out 'Here they come. Get ready.' AP and Billy cut their net and told them, 'Now where you come from? Take the net and put it on the boat.' The man said, 'Hello, where did you come from?' AP went around and could see another net. He said, 'You make sure it the last time. You go home where you come from' (statement by Paula Paul, Wellesley Islands marine native title claim).

One time, in around 1994, I took Frankie, my son, to Jurrmanki. We were going along the long sand bank there looking for dugong. We were going to Moonlight Creek. Near Horse Creek we saw a boat with a deep sea net and boat off Allen Island. I saw a buoy and nets in deep sea off Moonlight Creek. I cut those nets. It was my sea. In my mother's country. Those two fellas who had those nets were camping and hunting there. They had no right in our law to be there without asking. They were taking all the fish. I cut that net because it was in my country. Those nets will make us starve. We have to have free food in our own country like we have always done. White fellas have got to ask permission too. The law goes for them the same (statement by Reggie Robertson, Wellesley Islands marine native title claim).

Strategic planning by Traditional Owners of sea country

In addition to taking localised, direction action as described above, some Traditional Owner groups have taken strategic action on a regional scale to assert their interests in the management of sea country environments and resources. In 1994, Yolngu Traditional Owners of sea country off north-east Arnhem Land released an Indigenous Marine Protection Strategy for Manbuynga ga Rulyapa (the Arafura Sea), based on Yolngu customary law, which would allow Yolngu to progressively resume responsibility for various levels of management control over their sea country. The area covered by the strategy includes waters of the Arafura Sea and Gulf of Carpentaria extending from Maningrida in Central Arnhem Land to Numbulwar on the western shore of the Gulf, and extending northwards into international waters (Ginitjirran Mala 1994). This strategic approach provides a framework for addressing saltwater management issues in the region, but it does not diminish the need to recognise the authority of Traditional Owners to decide and negotiate on issues relating to their saltwater country, rights and interests.



The strategy points out that both domestic and international marine management arrangements have ignored Yolngu rights and interests in marine management arrangements. Commenting on the agreement between the Australian and Indonesian governments on the Exclusive Economic Zone (EEZ) boundary and the Australian and Indonesian Fishing Zone boundary, the strategy expresses concern about the lack of involvement of Yolngu people:

Despite it being widely known that Yolngu have had a long association with the people and the places to our north, the Australian Government failed to consult with us at all about this line. For hundreds of years, until customs charges and regulations severed the ties, Yolngu successfully negotiated mutually beneficial access rights with Bugis and other Macassan fishers. Unwanted attempts to exploit our resources however have been repelled with force as happened in clashes between Japanese pearlers and Rirratjingu and Djapu clansmen at Port Bradshaw and Trial Bay earlier this century. The proposed EEZ boundary cuts across our ceremonial song cycles and our law and now that this legislation is proclaimed, important sacred sites in the sea will now come under Indonesian Government control. The location of these areas needs to be clarified with custodians. It appears that the two governments don't recognise what they have done. They don't understand that they have split apart our water, dreaming paths and ceremonies. Now these important places are within Indonesia's EEZ, our native title rights to them that may have been acknowledged under Australian law may have been removed.

The Indigenous Marine Protection Strategy for Manbuynga ga Rulyapa makes the following recommendations:

1. *The seas off the coast of Miwatj (Arnhemland), between Djimardi (Blyth River) and Wurrungiyana (mouth of Walker River), should be referred to as Manbuynga ga Rulyapa on all new official maps of the area.*
2. *The Australian Government should consult with Yolngu about the northern extent of our interests in the sea.*
3. *A bilateral co-management arrangement with the Federal Republic of Indonesia for the whole of the Arafura Sea should be pursued by the Australian Government with the assistance of Yolngu.*

4. *The Indigenous Marine Protection Strategy for Manbuynga ga Rulyapa should continue to be based on the Yolngu management principles of djaagamirr and djaamamirr.*
5. *Governments should acknowledge and support the application of Yolngu law through Manbuynga ga Rulyapa.*
6. *Yolngu want to be able to set minimum safety standards for ships using their waters.*
7. *Yolngu want to own and operate commercial fishing enterprises in Manbuynga ga Rulyapa and to have a say in the way it is regulated.*
8. *Mining proposals for sea bed and subterranean minerals should be processed according to principles of Yolngu customary law.*

The Indigenous Marine Protection Strategy for Manbuynga ga Rulyapa was developed with funding assistance from the Commonwealth Governments Ocean Rescue 2000 Program, a forerunner of Australian Oceans Policy. To date the Northern Territory and Australian governments have not formally responded to the recommendations contained in the strategy, but have included Yolngu and other saltwater people in ongoing consultations about fisheries, dugong and turtle management, and involved them in government strategic planning processes such as the Regional Marine Plan under the Oceans Policy and the Coastal Management Strategic Plan for the Northern Territory.

Development of Aboriginal land and sea management agencies

Formal Aboriginal involvement in land and sea management through the training and employment of Community Rangers, and the associated establishment of dedicated Aboriginal land and sea management agencies, initially developed in several locations in Queensland and the Northern Territory in the mid-1980s (Sinnamon 1997, Smyth 1993 & 1994, Wallace et al. 1992). These agencies are Aboriginal organisations, linked administratively to elected Community Councils or as independent, Traditional Owner-based organisations, established to protect and manage the environment, resources and cultural values of Aboriginal land and



There are now 30 Aboriginal land and sea management agencies in the Northern Territory (Storrs et al. in press), of which eight are adjacent to the Planning Area (see Figure 15).

sea over a defined area. Having begun with little government support or recognition, in some locations these agencies have developed into well established organisations with considerable expertise in planning, geographic information systems, research, training and management, and have developed constructive partnerships with research, government and commercial organisations. In some coastal communities where formal land and sea management agencies have not been established, Community Rangers are employed directly by the community councils to undertake land and sea country management work.

Storrs et al. (in press) have described the current funding limitations and opportunities faced by these agencies, and indicated the potential role they have to undertake a diversity of coastal and marine management and monitoring functions:

Currently the natural resource management programs are based on CDEP with short-term funding from a variety of programs such as Landcare, Bushcare, Coastcare, the Indigenous Land Corporation, World Wildlife Fund and others. However there is a great need for broad-based flexible, medium to long-term block funding for the larger region.

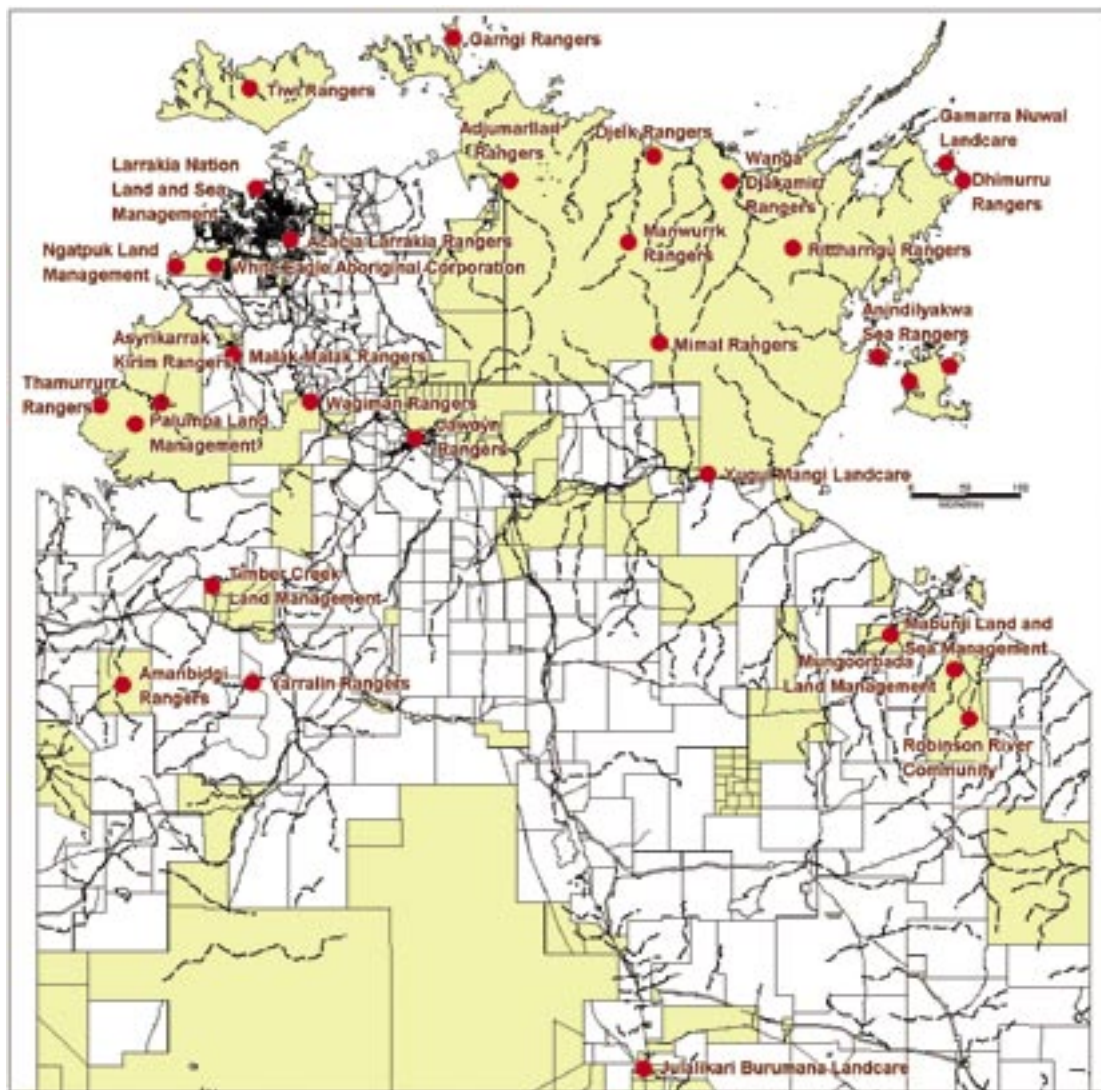
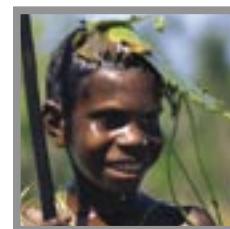


Figure 15: Location of Aboriginal land and sea management agencies in the Northern Territory

Source: Storrs et al. in press



These natural resource management programs have started to network with each other through such forums as the annual Top End Indigenous Rangers Conference and it is this loosely formalised structure that is showing itself to be a very important development on Aboriginal lands of the region.

Land and sea management activities provide a relevant environment for Aboriginal people to develop foundation skills in various forms of enterprise management and development. Enterprises based on the sustainable utilisation of natural resources could conversely fund natural resource management activities.

In addition to the long term goal of Aboriginal communities partially or fully funding natural resource management programs through enterprise development, it is important that Commonwealth and Territory Governments recognise and support the development of a formalised natural resource management structure on Aboriginal lands and seas across northern Australia. Such a structure is not only important for the environment and providing much needed jobs for Aboriginal people but also for the nation, providing the potential to develop more strategic links for quarantine, defence, customs and immigration.

Dhimurru Land Management Aboriginal Corporation is one example of the Aboriginal land and sea management agencies referred to above. It was established by Yolngu Traditional Owners in 1992 in response to the growing impact on Aboriginal land and sea country of the town of Nhulunbuy and associated mining and shipping activities (Gillespie & Cooke 1998). Initially focusing on managing recreational access of Nhulunbuy residents and visitors to Aboriginal land surrounding the town, Dhimurru gradually developed its capacity to engage in strategic planning for land and sea, while also developing credibility and partnerships with government and other organisations. This development has been driven by a dual determination to maintain Traditional Owners' rights to manage country, while seeking every opportunity to develop productive partnerships with outside agencies. Key operational issues for Dhimurru include monitoring and addressing the impact of visitor activities on cultural and natural resources in the recreation areas, fostering collaborative research and management partnerships, and promoting the role of traditional ecological knowledge in contemporary conservation resource management (Dhimurru 2003).

One of the significant outcomes of this approach was the declaration of an Indigenous Protected Area (IPA) over approximately 101 000 ha of land and sea country on the north-east tip of Arnhem Land, funded initially under the Commonwealth Government's Indigenous Protected Area Program (Environment Australia 2003, Smyth 2001, Szabo & Smyth 2003). The Dhimurru IPA is recognised by the Australian Government as part of the National Reserve System of protected areas. The IPA includes a significant area of sea country, even though statutory recognition of Traditional Owners' management rights over the sea has not occurred. The voluntary establishment of the IPA can be seen as an expression of Traditional Owners' desire to achieve good management outcomes, while still maintaining their struggle for more comprehensive recognition of their rights to sea country.

In 2002 Dhimurru successfully negotiated an agreement under the Section 73 of the *Territory Parks and Conservation Act 2000* to work with the Northern Territory Parks and Wildlife Commission in the administration and management of the IPA. This represents a new type of partnership between Traditional Owners and government conservation agencies in the management of protected areas in Australia. The voluntary and equitable nature of the agreement contrasts with the more coercive nature of negotiations of other joint management arrangements in Australia, whereby Traditional Owners only received title to their land on the condition that they accept the presence of a national park (Smyth 2001, Szabo & Smyth 2003).

Dhimurru Land Management Aboriginal Corporation has been involved in a range of marine research projects, including the tagging and tracking of turtles to determine their migratory patterns. Dhimurru and its project partners were the recipients of a major national environmental award in 2001 (Banksia Award – Coastal and Marine Category) for collaborative research on the source and impact of marine debris. They also won the NT Alcoa Landcare Community Group Award in 2001 (Dhimurru 2003). The Dhimurru logo is shown in Figure 16.



In addition to local environmental and resource management initiatives such as Dhimurru, regional environmental planning and management by Aboriginal people across the Top End of the Northern Territory is supported by the Northern Land Council through its Caring For Country unit, and by specialist staff dealing with fisheries management and more general sea country management issues.

The Northern Land Council's Caring For Country Unit (CFCU) provides regional support to locally based Aboriginal land and sea management agencies throughout the Top End of the Northern Territory, and has developed partnerships with funding, research, conservation and training organisations (Storrs et al. in press). The CFCU's roles include:

- Consulting and negotiating with Traditional Owners over environmental and resource management issues
- Promoting the application of Indigenous knowledge and western science to contemporary environmental management problems
- Facilitating the establishment of community-based Natural Resource Management Teams
- Facilitating environmental assessment for clan estates
- Facilitating getting people back to country, for example, in sea country monitoring patrols
- Facilitating the delivery of natural resource management education and training to communities and individuals
- Promoting economic enterprise development based on the sustainable use of wildlife.

Participation in consultative arrangements with government agencies

The main mechanism provided by governments for the involvement of Aboriginal people in routine marine environmental and resource management is through various fisheries consultative arrangements.



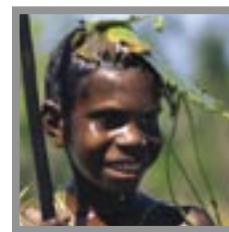
Figure 16: The Dhimurru logo symbolises the two moieties (the black cockatoo represents the Dhuwa moiety and the white cockatoo the Yirritja moiety), encircled by a stem of a coastal ground-creeping plant known as rowu (*Ipomoea pes-caprae*). This plant represents the unity of the clan groups working together.

Source: Dhimurru 2003

In the Northern Territory seven Fisheries Advisory Committees were established, beginning with the Anindilyakwa Fisheries Advisory Committee representing the Traditional Owners of Groote Eylandt and surrounding sea country in 1993. The Manbuynga ga Rulyapa, Numberindi and Wurrahaliba Fisheries Consultative Committees were established in 1995–96, the last two of these amalgamating into one committee in 1998. Along the Arnhem Land coast from Cobourg to Walker River the Traditional Owners declined to establish a committee. See Figure 17 for a map showing the location of the coastal areas covered by the consultative committees.

Membership of the consultative committees includes Traditional Owners, NT Government fisheries managers, NT Police, representatives of commercial fisheries and representatives of recreational fishers. The purpose of the Fisheries Consultative Committees was to provide a regular forum for:

- The fishing industry and NT marine–fisheries management and enforcement agencies to disseminate to Aboriginal people information on fisheries management and commercial opportunities
- Discussions of issues of concern to Aboriginal people and development of actions to address those concerns.



With the exception of the Manbuynga ga Rulyapa Committee, the Fisheries Consultative Committees have not met since 2000–01, when the Northern Land Council suspended support on the grounds that despite participation over a long period, little action had been taken to address the key issues and concerns raised by Traditional Owners, and that the meetings had become mostly vehicles for one-way information dissemination from fisheries managers and scientists (Scott 2003). Concerns raised by Traditional Owners at Fisheries Consultative Committee meetings included:

- Illegal fishing
- Insufficient involvement in fisheries enforcement
- Barriers to participating in commercial fishing
- By-catch and other wasteful fishing practices
- Transgressions onto sacred sites and country without permission.

Within the Queensland portion of the Planning Area, a Gulf Management Advisory Committee (Gulf MAC) advises the Queensland Fisheries Service and the Queensland Fisheries Joint Authority (QFJA) on the management of commercial, recreational and Indigenous fisheries in the Gulf of Carpentaria. Gulf MAC membership includes representatives of QFS, commercial fishers, recreational fishers and two Aboriginal community representatives. In practice, Aboriginal interests are usually represented by the two land councils in the area, the Carpentaria Land Council and the Cape York Land Council. There is no Indigenous-specific advisory committee for the Gulf region.

Recently, however, a Fisheries and Aquaculture Economic Working Group has been established under the Cape York Partnerships initiative, to explore opportunities for Aboriginal participation in commercial fisheries and aquaculture. Initiatives currently being developed include:

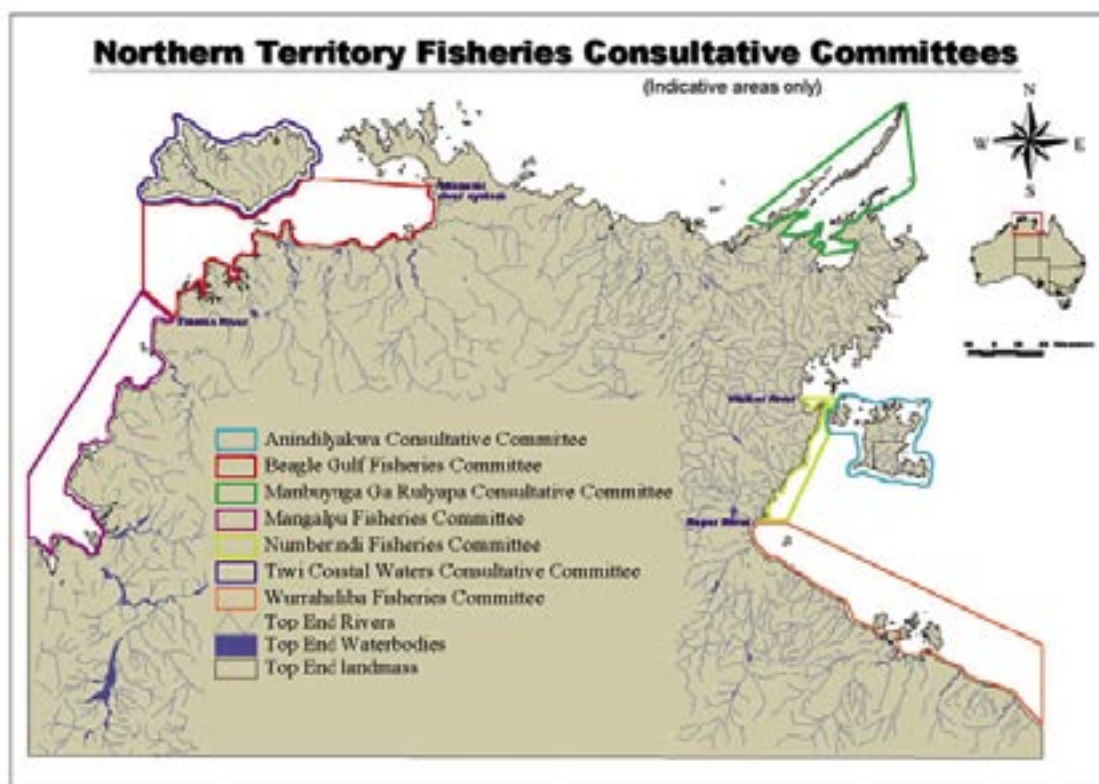


Figure 17: Coastal areas covered by Northern Territory Fisheries Advisory Committees

Source: Department of Business, Industry and Resource Development 2003



- Establishment of the Cape York Fishing Company, an Indigenous-owned enterprise that will engage in commercial fishing on the east and west coasts of Cape York Peninsula (and potentially elsewhere)
- Employment by QFS of Project Support Officers to work with Aboriginal communities on a range of fisheries issues
- Crab stock assessment in the Bamaga area, as the first stage of a potential crab farming enterprise
- Establishment of an Indigenous Aquaculture Working Group to explore Indigenous aquaculture opportunities in Cape York Peninsula.

While these initiatives are focused exclusively on the Cape York Peninsula, it is intended that their development will lead to equivalent developments elsewhere in Queensland and contribute to a policy framework for Indigenous fisheries (Clarke, Queensland Department of Primary Industry, pers. comm. October 2003).

Marine protected areas

There are no marine protected areas within the Planning Area. Legislation in the Northern Territory and Queensland provides limited opportunity for Aboriginal involvement in the establishment and management of marine protected areas.

Northern Territory

To the west of the Planning Area, the Cobourg Marine Park, established under the Cobourg Peninsula Land, Sanctuary and Marine Park Act, is Australia's only jointly managed marine protected area. An eight-person board of management, comprising four Traditional Owners and four government-appointed members, oversees the management of Gurig Gunuk Barlu National Park, which includes a terrestrial national park on the Cobourg Peninsula and an adjacent marine park. One of the Traditional Owners is the board chair and has a casting vote. Day-to-day management of the integrated terrestrial and marine park is under the control of the Parks and Wildlife Commission, while fisheries

management is retained by the Department of Primary Industries and Fisheries. A draft plan of management for the marine park provides for zoning to control public access to waters adjacent to Aboriginal outstations, but Smyth (2001) has noted that the lack of board authority over fisheries management is a serious constraint on Aboriginal control over their sea country within the marine park.

For marine parks established under Section 12 of the Parks and Wildlife Act, opportunities for Traditional Owners' involvement are generally limited to commenting on draft plans of management and membership of statutory management committees under Section 123(1)(b) of the Act, or voluntary advisory bodies.

Queensland

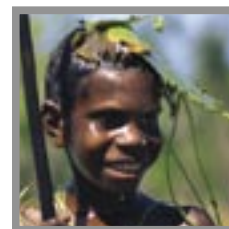
The *Marine Parks Act 1982*, currently under review by the Environment Protection Authority, makes no specific reference to Aboriginal rights and interests in marine protected areas. However, the Act does include provisions (Section 26) for the delegation of the Minister's authority to any person, potentially enabling the devolution of marine park management to an Aboriginal group or organisation. The Act also provides for the creation of Regulations for the appointment of inspectors or honorary protectors to implement the management of marine parks.

Though there are currently no Queensland marine protected areas within the Planning Area, the Draft Planning Framework for Marine Parks in Queensland (Environmental Protection Authority 2003) includes the goal to:

Establish a continuous system of marine parks from the Gulf of Carpentaria to Moreton Bay in Southeast Queensland.

The Draft Planning Framework acknowledges the relationship between Indigenous peoples and the marine environment and sets the goal of establishing Indigenous partnerships in the management of marine parks, potentially through cultural management units such as clan estates, rather than bioregions:

Indigenous peoples of Aboriginal and Torres Strait Islander heritage have had cultural and subsistence relationships with the Australian marine environment



for thousands of years. Indigenous peoples in many parts of Australia continue to have strong links with the sea, and regard coastal waters as part of their 'country' or clan estates.

In bioregions such as those in the Gulf of Carpentaria and Torres Strait where traditional inhabitants remain predominant users of marine ecosystems, any measure for protecting the marine environment must be culturally relevant and respect traditional custodianship.

Indigenous people have suggested that approaching the planning of marine protected areas in some parts of Queensland from the perspective of traditional clan estates might be more appropriate than a bioregion basis. These suggestions have some validity (Environmental Protection Authority 2003).

Protecting cultural sites

In the Northern Territory, registered Aboriginal sacred and other cultural sites on land, on the sea bed and in the sea are protected under the *Northern Territory Aboriginal Sacred Sites Act 1989*. The Act is administered by the Aboriginal Area Protection Authority (AAPA) (formerly the Sacred Sites Authority), which assesses nomination for site registration, determines the level of protection and, if appropriate, physically marks the location of the site or area with signs. For some registered marine sacred sites, buoys with signs advising that an area of sea is a registered site are moored in appropriate locations. The AAPA has published a map of registered and recorded coastal sacred sites, available in printed or CD format (Aboriginal Areas Protection Authority 2002). However, this map does not purport to show the complex coastal cultural seascape and landscape, of which registered and recorded cultural sites are but one aspect. The map is not inclusive of all coastal and saltwater cultural sites, and does not denote areas of customary ownership and marine tenure, dreaming tracks, etc.

As it is an offence under the Northern Territory Aboriginal Sacred Sites Act to enter or remain on a sacred site, to carry out work on or use a sacred site, or to desecrate a sacred site, registration of marine sites provides a mechanism for Traditional Owners to prohibit access to particular marine areas. Site registration, however, does not give authority to Traditional Owners to manage these sacred marine areas (Smyth 1993, Bergin 1991). As noted in Section 4, some Traditional

Owners have expressed concern that registration of marine sites has not prevented unwanted access, and some site marker buoys have been vandalised.

In Queensland the Environment Protection Authority (EPA) maintains a publicly accessible Heritage Register of Aboriginal Places and Historic Sites which are formally protected under the *Cultural Records (Landscapes Qld & Qld Estates) Act 1987*. The EPA also maintains an Inventory of Aboriginal Sites, which includes culturally significant places that have not yet been added to the Heritage Register, or which Aboriginal people have requested to remain confidential. Very few Aboriginal sacred sites are listed on the Heritage Register, and none of them are in the sea. The Inventory of Aboriginal Sites is not publicly accessible, and hence knowledge about cultural sites for a particular area must be obtained directly from Traditional Owners. In the absence of substantive involvement of Traditional Owners in coastal and marine management, protection of marine cultural sites is not possible (Smyth 1993).

A new Aboriginal Cultural Heritage Bill 2002 is currently being considered by the Queensland Parliament. This Bill has been criticised by the Queensland Indigenous Working Group on the grounds that it fails to adequately address the shortcomings of the existing legislation (Queensland Indigenous Working Group 2002).



Summary of managing sea country

There are several key differences between Aboriginal and statutory views on the sea, summarised in Table 11.

Table 11: Comparison of government and Indigenous concepts of sea country management

Statutory marine management	Aboriginal sea country management
Sea and sea bed owned and managed by governments	Sea and sea bed owned and managed by clan groups and/or wider kinship groups
Land owned and managed separately from the sea	Coastal land and sea managed together as sea country
Fisheries, other marine resources, environment, shipping, etc. managed by separate agencies under separate legislation that covers all state, territory or Commonwealth waters	Integrated management of all sea country environments, resources, access and use by Aboriginal groups on a local area basis
Political and statutory boundaries between state, territory, Commonwealth and international waters	Sea country estates extend seaward to the horizon or to where clouds are visible





Part B:

Living on Saltwater Country

Review of literature about
Aboriginal rights, use,
management and interests in
northern Australian marine
environments – Cape York
Peninsula

By J Monaghan

A report for Balkanu Cape York
Development Corporation

DISCLAIMER

This paper is not intended to be used or relied upon for any purpose other than the management of marine resources. The Traditional Owners and native title holders of the regions discussed in this report have not had the opportunity to comment on this document and it is not intended to have any bearing on their individual or group rights, but merely to provide an overview of the use and management of marine resources in northern and western Cape York Peninsula.



CONTENTS

1. Introduction

1.2. The geographic context of sea country in western and northern Cape York Peninsula	81
1.3. The scope of the review	85

2. Understanding sea country in western and northern Cape York Peninsula

2.1 Gulf of Carpentaria Region	86
2.2 Arafura Sea Region	94

3. Saltwater people in western and northern Cape York Peninsula

4. Claiming Sea Country in western and northern Cape York Peninsula

4.1 Mission Time	106
4.2 Department Time	108
4.3 Community Time	110
4.4 CYPLUS – regional scale natural resource assessment on Cape York Peninsula	114

5. Using Sea Country in western and northern Cape York Peninsula

5.1 Current Aboriginal use of the marine environment	115
5.2 Aboriginal concerns about non-Indigenous use of sea country	117

6. Managing sea country in western and northern Cape York Peninsula

6.1 Community scale sea management	122
6.2 Regional scale sea management	124

FIGURES

Figure 18: Cape York Peninsula (Cape York Peninsula Development Association 2001)	79
Figure 19: Regions of western Cape York Peninsula	80
Figure 20: Aboriginal language provinces in Cape York Peninsula (Tindale 1974)	89
Figure 21: Annual cycle of activities, based upon, and regulated by, season change – Wik Munkan tribe (Thomson 1939)	91
Figure 22(a): Age and gender profiles for Pormpuraaw (ABS 2001)	98

Figure 22(b): Age and gender profiles for Kowanyama (ABS 2001)	98
Figure 22(c): Age and gender profiles for Aurukun (ABS 2001)	99
Figure 22(d): Age and gender profiles for Weipa (ABS 2001)	99
Figure 22(e): Age and gender profiles for Napranum (ABS 2001)	100
Figure 22(f): Age and gender profiles for New Mapoon (ABS 2001)	100
Figure 22(g): Age and gender profiles for Injinoo (ABS 2001)	101
Figure 22(h): Age and gender profiles for Umagico (ABS 2001)	101
Figure 23: A Queensland Government Advertisement of DOGIT reform (The Queenslander 1986)	111
Figure 24: A 'Department' Brochure that promotes the 1985 Aboriginal Landholding Act	112
Figure 25: Native title claims in Cape York Peninsula (National Native Title Tribunal 2003)	113
Figure 26: Total fish catch in 2001 (Queensland DPI with annotation by J Monaghan)	118
Figure 27: Total barramundi catch in 2001 (Queensland DPI with bioregions annotation by J Monaghan)	119
Figure 28: Significant wetlands of Cape York Peninsula (Abrahams et al 1995)	126

TABLES

Table 12: Marine resource use regions in western and northern Cape York Peninsula	84
Table 13(a): Marine species taken at Pormpuraaw	92
Table 13(b): Marine species taken at Pormpuraaw	93
Table 14(a): Social indicators for western and northern Cape York Peninsula	96
Table 14 (b): Comparative social indicators for Australia	97
Table 14(c): Social indicators for southern Gulf Lowlands	97
Table 14(d): Social indicators for northern Gulf Lowlands	98
Table 14(e): Social indicators for Weipa/Napranum region	99
Table 14(f): Social indicators for Northern Peninsula region	100
Table 15: Dependency ratios in western and northern Cape York Peninsula community census area	104

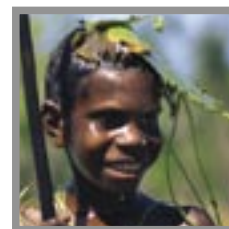


Figure 18: Cape York Peninsula

Source: Cape York Peninsula Development Association 2001



Figure 19: Regions of western Cape York Peninsula



1. INTRODUCTION

1.2. The geographic context of sea country in western and northern Cape York Peninsula

Except for the very far north of Cape York where Injinoos sea country includes both eastern and western coasts, western Cape York has a distinctive identity. Excluding the mining township of Weipa, about 91% of the residents of western Cape York Peninsula are Indigenous Australians (ABS 2001) who have a lifestyle that is markedly different from those found elsewhere in the Peninsula or in mainstream Australia. The Kaurareg nation, which is centred on Horn Island in the Torres Strait, north of Cape York, has close associations with the northern Peninsula communities, who in turn have similar lifestyles to people of the Lockhart River community on the east coast of the Peninsula. The west coast is biogeographically distinct from the rest of the Peninsula, and much of it is characterised by broad river floodplains, low relief, and seasonal inundation and extreme flooding from monsoonal rainfall that isolates the region from the rest of the world for about six months in any seasonal cycle. A unique suite of cultural, geographical and historical circumstances has created an Aboriginal enclave in western Cape York Peninsula that sets it apart as a distinct region of North Australia. Comparable regions also exist in Arnhem Land in the Northern Territory and in the Kimberley region of Western Australia (Monaghan 2003c). According to John Von Sturmer, such enclaves are:

areas in which the dominant social life and culture are Aboriginal, where the major language or languages are Aboriginal, where the system of knowledge is Aboriginal: in short, where the resident Aboriginal population constitutes the public (cited in Rowse 1992).

Consequently, any regional scale review of marine resource use issues has to be one that accords with Aboriginal perceptions of the landscapes and seascapes of the region.

According to the Queensland State Coastal Management Plan, the west coast of Cape York Peninsula abuts two marine bioregions, the Gulf of Carpentaria and the Arafura Sea (Sattler & Williams 1999). These two bioregions are broadly exclusive of each other on the west coast of Cape York Peninsula in terms of:

- Aboriginal ontology and the ways in which the social and cultural significance of the marine environment are expressed
- Aboriginal economy and use of the marine environment
- Coastal geomorphology and dominant coastal processes and landforms
- Aboriginal and European tenures, and related notions of ownership or rights of use of the marine resource.

The word European is used in this review to describe non-Aboriginal tenures, institutions and management regimes; it is a term that is widely used by old and young people on the west coast of the Peninsula to describe mainstream Australian affairs.

The boundary between these two marine bioregions is at the Mitchell River (in the Kowanyama Deed of Grant in Trust (DOGIT) community), though it can be argued, depending on the criteria used for regionalisation, that a boundary can be drawn further north at the confluence of the Kendall and Holroyd Rivers (as for instance by Morgan 1999 in Sattler and Williams 1999), at the boundary between the Pormpuraaw DOGIT and the Aurukun Shire, or at the Archer River at the northern end of Aurukun Shire (for instance based on criteria in Thomson 1939, Danaher 1995, Burne and Graham 1995, Whisson and Young 1995).

The coastal country north of the Mitchell River, at least as far as the Holroyd River, is physically similar to that of the Gulf Plains terrestrial biogeographical region which borders much of the Gulf of Carpentaria elsewhere in Queensland. This coastal country is included in the Cape



York Peninsula terrestrial bioregion because of climatic differences between the two regions (Sattler & Williams 1999). The Archer River is recognised as a significant regional boundary in Burne and Graham's assessment of the geomorphology of the coastline of Cape York Peninsula (1995). The latter authors describe the entire coast south of the Archer River as a depositional environment. The Gulf of Carpentaria coastline has a low gradient with a wide and shallow tidal range; drainage into the Gulf in this region has a high sediment discharge; and chenier, south of the Nassau River, and beach ridge systems are the dominant topography along the coastline (Rhodes 1980). Apart from the ridges which, depending on their age and elevation, support acacia or eucalypt woodland, or vine thicket 'rainforest', the coastal landscape mainly comprises mangrove forest along the wide and anastomosing channels that drain this country, and extensive areas of salt marsh, and of open '*Sporobolus virginicus*' or 'Marine Grass Plains' (Monaghan & Taylor 1995). The main landforms are the large alluvial fans of the Nassau River and the Mitchell River and the more ancient deltaic deposits that underlie the Holroyd and Kendall River floodplain. All of these alluvial plains have numerous and extensive perennial wetlands on their surface. There are no offshore reefs or islands but the coastal landscape is subject to wet season inundation which leaves the coastal ridge country as a string of islands that provide refugia for people and wildlife for up to five months in any seasonal cycle. High tides between November and February can bring salt water up to 20 kilometres inland across the coastal plains and along the courses of the main rivers. This seasonal movement of the salt and fresh water interface is integral to the life cycles and breeding of sea life in the Gulf of Carpentaria. People throughout western Cape York Peninsula refer to this coastal landscape as 'saltwater' country and view it as an elemental part of the marine environment.

Burne and Graham (1995) define two geomorphological provinces for the coastline north of the Archer River, in the Arafura Sea marine bioregion. The first province extends as far north as Vrilya Point. This is a steeply inclined coastline with a narrower and deeper tidal range than further south, and with a narrow coastal plain. Laterite cliffs are the main landform, and fringing coral reefs occur in places along this coast. The other province which extends to the top of the Peninsula includes the Jardine River coastal plain.

There are distinct differences between the marine environments of the west and east coasts of Cape York Peninsula. The most obvious are that the west coast has a fairly continuous and uniform coastline with fewer embayments, no offshore islands and considerably fewer reefs other than in the Arafura Sea region, than are found on the east coast. There are also marked differences in the distribution of marine vegetation. Danaher (1995) records 210 160 and 16 450 ha of seagrass, and 83 080 ha and 121 500 ha of mangroves on the eastern and western sides of the Peninsula respectively, with *Rhizophora* species dominant on the east coast and almost absent on the west coast. There are no foreshore mangroves north of the Melamen Creek (in the Pormpuraaw DOGIT), though extensive mangrove communities occur in Albatross Bay (Weipa) and Archer Bay (Aurukun) and along the tidal reaches of the main river channels. No seagrass beds were identified south of Melamen Creek in a Peninsula-wide survey of marine vegetation (Danaher 1995), again probably because of the open exposure and lack of embayment in the Gulf of Carpentaria coastline. Most of the seagrass beds recorded on the west coast are in the Arafura Sea marine bioregion.

Aboriginal use of boats and of the open sea is less significant in the Gulf of Carpentaria than on the east coast of Cape York Peninsula. On the west coast, Aboriginal people to the north of the Archer River use the open sea to a greater extent than people to the south, where more sea life, whether fish or turtle or crustaceans, is obtained from the estuaries and seasonally flooded saltwater country. This pattern of open sea and estuarine marine resource use is also reflected in the distribution of commercial and recreational fishing all along the west coast of the Peninsula (see Tilbury 1995).



From my own personal experience of the Gulf Country, seascapes in the Gulf of Carpentaria from the Coleman River system at Pormpuraaw to the Norman River at Normanton do not contain notions of ownership or 'estate', nor of mythology and knowledge or 'Dreaming', that are comparable in their complexity or extent to those in the Arafura Sea bioregion, or on the east coast of the Peninsula where the Great Barrier Reef provides a complex sea topography. This is possibly because the places in the sea where such values might be located, whether islands or reefs, are not so prevalent in the Gulf of Carpentaria.

The bathymetry of the Gulf of Carpentaria has only recently been mapped. To what extent sand bars and tidal mudflats influence notions of 'estate' and social constructions of sea country requires further investigation. Sand bars and tidal mudflats can extend for up to four or five kilometres offshore. People at Pormpuraaw certainly exploit this tidal range and even wade out into it at times when conditions have only partially revealed it (John Taylor, pers. comm.). People at Kowanyama monitor sea traffic and the use of sea country 'as far as the eye can see' from the shoreline. The range of this visual surveillance encompasses most of the commercial fishery in this area of the Gulf.

Until the arrival of the white man, wooden dug-out canoes were not in use on the Gulf of Carpentaria, south of the Pennefather River. Bark canoes, manufactured from stringybark (Eucalyptus tetradonta) and known to the Wik Munkan as tonn, are in use on the Archer River and its tributaries, and among all the people of the neighbouring groups as far south as the Kendall River. The tonn is essentially a river and estuarine craft, rather than a seagoing canoe. It is, however, freely employed by all the people about Albatross Bay [the present day Weipa area] for the hunting of dugong and turtle, which are harpooned as on the East coast. These canoes can only be made after the commencement of the rains, for until this time the bark will not strip. But the bark forms an important means of transport during the wet and in the early part of the dry season (ontjin min), when, on account of the flooded state of the rivers and of the low lying country, as well as the long grass, travel by land is difficult (Thomson 1939).

Sharp describes movement around the marine environment in Kowanyama in the early 1930s as follows:

Bark canoes are used by the Wik-speaking tribes at the mouth of the Kendall River, forty-five miles north of the Edward River [present day Pormpuraaw]. The tribes of the Edward River and to the south know this fact, and even have a word for canoe (pinat, ordinarily a pointed wooden container, but now meaning also any boat); and yet their only means of water transport is a light wood log four or five feet long (yo wawn) to which they cling as an aid in swimming rivers and tidal inlets. They know that the natives with bark canoes can fish from midstream and that they can cross the coastal waters infested with crocodiles, sharks, sting-rays, and Portugese-men-of-war with a far greater degree of safety. The tree (w'ar) which supplies bark for canoes is as abundant in the southern area as in the northern. The only apparent reason for the non-adoption of this valuable culture trait by the southern tribes is the difficulty involved in fitting the trait into the established scheme of things. It would have to be incorporated into one totemic complex or another and a myth explaining its presence and associating it with a lineage as a totem would have to be developed, if it were to become a permanent part of the culture of the southern tribes (Sharp 1937).

The estuarine dependency on the marine environment that the above accounts describe still applies to the majority of local sea use in the Gulf of Carpentaria Lowlands today. The open sea is nevertheless recognised in the control of floods and winds and tides (von Sturmer 1978, Taylor 1984, Monaghan & Taylor 2003) and in control of the availability of sea life such as fish or crustaceans at increase or 'poison' sites (Sharp 1937, Taylor 1984, Monaghan 2001) in present day ritual, and marine resource management practice. This practice involves elements of both remote sensing and of remote control of sea life and the marine environment from special places in the coastal landscape where the ritual knowledge and belief systems that are associated with the management of sea country are located.

Ontologically, Aboriginal people in the western Peninsula perceive all seasonally inundated wetlands and estuarine



and marine phases of the ocean environment as part of the sea, and many species of sea life pass through these phases in their lifecycles. This perspective of the extent of sea country is contrary to mainstream marine-planning perspectives and is one that has to be appreciated in future negotiations with communities in western Cape York Peninsula. For many people in the southern Gulf Lowlands there is no definite elemental distinction between land and sea. This praxis is also apparent socially in family relationships, and in territorial affiliations and reciprocity in natural resource use between ‘saltwater’ people on the coast and ‘freshwater’ people who live further inland, hence notions of marine resource ownership or use can also extend for considerable distances inland.

In summary so far, biogeographical and cultural criteria can be developed to identify four distinct marine resource use regions on the west coast of Cape York Peninsula and the Upper Gulf Country that adjoins the Gulf of Carpentaria (Table 12, Figure 19).

These regions differ from each other in terms of their nature conservation values (as defined by CYPLUS

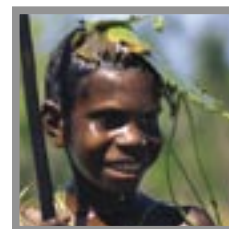
1996), their marine resource use characteristics, the tenures and administrations that underlie them, and the social, cultural and demographic characteristics of the people who live within them. Neldner and Clarkson’s mapping of the vegetation of Cape York Peninsula (1995) shows markedly different trends in the extent and the composition of coastal wetlands or ‘saltwater’ country between these marine resource use regions. The regions are not entirely exclusive of each other in terms of all of these properties but the differences are such that they provide a reasonable first approximation of regional trends around which the material relevant to a review of Aboriginal marine environments in western and northern Cape York Peninsula can be organised. This review will demonstrate that the proposed marine resource use regional framework is one in which thoughts about marine resource use management plans may be developed.

Bioregions are abstract scientific and management concepts; nevertheless, the marine resource use regions that are proposed within them in this review correspond to locally held perspectives within the western Peninsula of the distribution of sea and saltwater country and their concomitant social, cultural and economic values.

In general, when people in the southern Gulf Lowlands refer to the sea they do so by reference to rivers. Hence

Table 12: Marine resource use regions in western and northern Cape York Peninsula

MARINE BIOREGION	RESOURCE USE REGION	COMMUNITIES	MAIN RIVERS
Gulf of Carpentaria	Southern Gulf Lowlands	Kowanyama Pormpuraaw	Mitchell, Nassau, Staaten, Coleman, Melamen, Edward, Holroyd
	Northern Gulf Lowlands	Aurukun	Holroyd, Archer, Watson
Arafura Sea	Weipa/Napranum	Weipa Napranum	Embley, Wenlock, Watson
	Northern Peninsula	Mapoon New Mapoon Injinoo, Seisia, Bamaga, Umagico, Kaurareg Islands	Ducie, Jardine, Doughboy, Skardon



the inclusion of river names in region definitions in Table 12. Rivers have been used as spatial referents for the marine environment in natural resource mapping undertaken in Pormpuraaw and Kowanyama in recent years (Monaghan 2003a, 2003c). This mapping was undertaken in close consultation with traditional landowners in both communities and was not completed until it reflected their understanding of the major trends in natural resource distribution in each community. All of the landscape units which were identified by the Traditional Owners have a very high spatial concordance with river basins. Rivers also have a high concordance with Aboriginal social organisation of the landscape. The main rivers of western Cape York Peninsula almost invariably reflect the boundaries of language provinces and 'tribes', and minor-order drainage often acts as a boundary to a traditional clan estate or a present day homeland or outstation area. Rivers are also used as spatial referents for the only detailed summaries of the marine and terrestrial biological and nature conservation properties of the region that have been provided by the Cape York Peninsula Land Use Study (CYPLUS) (Abrahams et al. 1995, Danaher 1995, Neldner & Clarkson 1995, Whisson & Young 1995); they also provide many of the references to Aboriginal territory in the Gulf Lowlands in the ethnographic literature (Sharp 1937, McConnell 1939, Sutton 1978, Chase & Sutton 1981, Taylor 1984, von Sturmer 1978). The use of the names of sea topography such as islands or reefs to identify sea country is more apparent in the literature for the Arafura Sea bioregion. Consequently, much of the material in the following review of Aboriginal marine environments in western Cape York Peninsula is referenced to river names.

1.3 The scope of the review

As a literature review, this report provides a 'bird's eye' view of the Aboriginal social, cultural and economic meanings and values of sea country in western and northern Cape York Peninsula. The content and detail of the literature is uneven in its geographic scope and that reflects an important issue in marine planning for these regions in that there are many gaps in current and published understanding of sea country that have to be addressed before informed planning can be undertaken.

Unfortunately few Aboriginal people write about themselves. From time to time they rely on other people to report on their affairs and their views of the world. The author of this review provides a 'worm's eye' view of the issues that are germane to marine planning from the perspective of work undertaken in the communities of Kowanyama and Pormpuraaw in the southern Gulf of Carpentaria Lowlands of Cape York Peninsula over the last 12 years. About 40% of that time has been spent living and working in Kowanyama and Pormpuraaw. Those experiences and knowledge lend an unavoidable geographic bias to parts of the following review.

The Cape York Peninsula Land Use Study (CYPLUS) has provided material for much of the broader 'bird's eye' scope of this review. As a land use study, the CYPLUS literature has a terrestrial focus; it was compiled in the early and mid-1990s from the literature and various 'worm's eye' views that were available at that time. Notable exceptions to the latter constraints include the outstanding CYPLUS studies of terrestrial vegetation (Neldner & Clarkson 1995) and of marine vegetation (Danaher 1995). These exceptions prove the rule in some respects, in that scientific and natural resource management interests in the western Peninsula to date have been in its biology and nature conservation values and not in the social, cultural and economic circumstances of the people who live there. More research is required in order to understand the human land- and sea-scapes of the western Peninsula. This is particularly so because Native Title and Land Claim legislation introduced in Queensland since the early 1990s has given Aboriginal people in the Peninsula the mechanisms by which they may determine the future state of their sea country using their own policies and protocols, developed over many millennia and applied by them in the day-to-day management of their sea country.



2. UNDERSTANDING SEA COUNTRY IN WESTERN AND NORTHERN CAPE YORK PENINSULA

Ethnographic descriptions of sea country on the west coast of the Peninsula in the early and middle years of the 20th century are found in the following literature:

- *The Social Anthropology of a Totemic System in North Queensland, Australia* (Sharp 1937)
- *Social Organisation of the Tribes of Cape York Peninsula, North Queensland* (McConnell 1939)
- *Seasonality and Human Culture* (Thomson 1939)
- *Wik: Aboriginal Society, Territory and Language at Cape Keerweer, Cape York Peninsula, Australia* (Sutton 1978)
- *The Wik Region: Economy, Territoriality and Totemism in Western Cape York Peninsula, North Queensland* (von Sturmer 1978)
- *Hunters and Gatherers in a Rich Environment: Aboriginal Coastal Exploitation in Cape York Peninsula* (Chase & Sutton 1981)
- *Of Acts and Axes. An ethnography of socio-cultural change in an Aboriginal community, Cape York Peninsula* (Taylor 1984).

This literature describes the area of the present day Aurukun, Pormpuraaw and Kowanyama communities.

2.1 Gulf of Carpentaria region

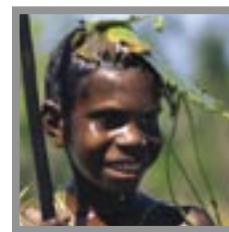
The starting point for an understanding of sea country in the Gulf of Carpentaria region is in the classic paper 'The Seasonal Factor in Human Culture' (Thomson 1939). The geographical focus of this paper is the Archer River region of Aurukun but Thomson's field experience was wide-ranging. For instance, he spent several months camped on the Coleman River in company with a large party of Yir Yoront people in 1928, and also spent time camped at the Edward River amongst Thaayore people in about 1936 (Taylor 1984). In his paper Thomson

observed the effect of the monsoon climate of Far North Queensland on Aboriginal custom and lifestyles. He described the seasonal distribution of differing types of wetland, their significance as habitat for flora and fauna, and hence as reservoirs where local people obtained food and other raw materials. Thomson also described in general terms the social organisation underlying the strategies by which separate groups of people allocate the exploitation of differing wetlands and how these groups of people came together or dispersed as the distribution of water changed through the year. Four properties of sea country in the Gulf of Carpentaria Lowlands are indicated in Thomson's paper:

- sea country is largely near-shore and estuarine
- the use of marine resources is part of a regular seasonal cycle of economic activity that follows the lifecycles of sea life (fish and crustaceans) in the region
- people are mobile and move from place to place throughout the year as natural resources wane or come into fruition
- sea country is used most heavily in the wet season.

Later authors, including Chase and Sutton (1981), Sutton (1978), Taylor (1984) and von Sturmer (1978), elaborate on the modes of social organisation and the logistical strategies that people use in movement around their land- and seascape and in natural resource procurement.

Taylor's (1984) research is based on fieldwork between 1968 and 1973; many of his informants in the community during that time had lived in the bush as young adults in the 1930s and remembered their pre-mission lifestyle. These latter recollections, and extensive field mapping by Taylor and Traditional Owners of the location of places and of the kinds of natural resource use associated with them, provided Taylor with the basis for a logistical model of pre-contact land use in the Kuuk Thaayore country between the Edward and the Coleman Rivers.



Taylor (1984) describes a small but highly mobile population which fragmented into small residential groups in the wet season and which later coalesced into larger more mobile groups during the dry season. They were largely sedentary during the wet season, when they lived in small camps on the beach ridges on the coast where fresh water was obtained by digging wells through the ridge substrate. Following the end of the 'wet', usually in March or April, people moved off the ridges to collect the birds, eggs and vegetation that are available in and around late wet season swamps near the coast. As the landscape became desiccated, grasses were burnt to enhance hunting opportunities, and with the disappearance of surface water from coastal areas by May or June, a more regulated pattern of movement between the permanent fresh water lagoons found further inland was initiated. As these lagoons became progressively shallower and then empty, larger social groups formed around the remaining deeper lagoons. Dry season subsistence was largely based on the collection of nonda plums, which come into fruit around September, and the selective poisoning of waterholes to collect fish. These formed food staples until the onset of the 'wet', usually in November or December, when people moved back to their wet season camps on the coastal ridges.

Like Thomson (1939), Taylor recorded a mobility pattern in Pormpuraaw that was socially organised, cyclical and predictable in nature, and based on carefully prescribed routes between lagoons and rights of entry to use water, or to hunt and collect attendant wildlife and vegetation. The movement of campsite by any group that practices this kind of land use has consequences for the foraging and logistical radii of other groups of people that share the same landscape. In the Gulf Lowlands this movement was controlled by those formal and informal rights of access that arise from whether a person or group is in their father's or mother's country, or in other words whether they are in their clan estate or range (after Stanner 1965); and movement was also no doubt controlled by the exchange of information about environmental conditions and natural resource availability between neighbouring groups (Monaghan 2003c).

Binford (1980) has defined two forms of 'tactical mobility' or alternative strategies in seasonal movement around a landscape. A 'residential strategy' involves the collection of food, usually by specialised work groups working over a relatively small distance from camp, in an

environment where there is a high degree of constancy in food reserves. Food is collected and then taken back to a residential camp. When the food resources around the camp are sufficiently depleted then the whole group moves to another site. Binford refers to people who follow this kind of strategy as 'collectors'. Alternatively, 'foragers' have to practise a 'logistical mobility', or 'mapping on' behaviour, which requires them to move their residence more frequently than collectors and to search for food over large 'foraging radii'. Foragers behave logistically in their selection of foraging 'patches' and in the amount of time that is spent in hunting or gathering food in these areas so that serious resource depletion is avoided. In highly seasonal environments either tactical or residential strategies may be practised at different times of the year. Features of both are evident in the Gulf Lowlands in the contrasting wet and dry season lifestyles described by Sharp (1937), Thomson (1939), Taylor (1984), Chase and Sutton (1981) and von Sturmer (1978). They have been identified as a form of 'strategy switching' between collecting and foraging modes of food procurement, and between relative sedentariness and high mobility in residence in the wet and dry seasons respectively (Gould 1991).

There was little uncertainty or risk in foraging strategies in the Gulf Lowlands. Gould (1991) has said that the seasonal mobility strategies described by Thomson (1939) for the 'Wik Munkan' are characteristics of perhaps one of the most sedentary populations in Aboriginal Australia. Taylor (1984) reported that some dry season movement was undertaken for social or gastronomic reasons, either because of boredom or the desire to vary diet. In the 1930s, Sharp (1937) described a mobile population in the dry season in what is present day Kowanyama (in Yir Yoront country between the Coleman River and the Mitchell River), where movement was driven by social as much as by subsistence needs. Von Sturmer (1978) also identified a desire for diversity in diet rather than necessity as the reason for seasonal mobility in the country north of the Edward River in Pormpuraaw.



As well as involving a switch from highly mobile foraging in the dry season to relatively sedentary food-collection strategies in the wet season, seasonal movement may also have involved changes in terms of social relations and the way people mapped themselves onto the landscape (Monaghan 2003c). This seasonal change in behaviour is apparent in the distribution of mapped clan estates (in particular those maps in Sharp 1937, von Sturmer 1978 and Taylor 1984). Numerous small and exclusive clan estates have been mapped in the coastal or 'wet season' country. Beyond about 20 kilometres inland, there are fewer estates because they are more extensive in area; and they have boundaries that are socially more permeable than those of the coastal estates (Chase & Sutton 1981, Sharp 1937, Sutton 1978, von Sturmer 1978, Taylor 1984). Thomson (1939) and Sharp (1937) describe late dry season gatherings that may have involved hundreds of people, 'for the great ceremonial fiestas of the winter' (Sharp 1937) at inland waterholes.

The length of wet season residency on the coastal ridges, often by a single family at a single location, and the implied exclusive use of space in this strategy, relate to the notions of formal control of the clan estate (of which there are many) and of 'father's country'. Traditionally, wet season camps were tranquil places where there was little contact with people in other camps (Sharp 1937, von Sturmer 1978, Taylor 1984). By contrast, the pattern of short-term or intermittent residency, high mobility and the implied sharing of space in inland areas in the later dry season is connotative of a 'public space' (Monaghan 2003c). Whereas Taylor describes a relatively permeable boundary in seasonal movement between sea country and inland country in Thaayore territory south of the Edward River, other authors (Chase & Sutton 1981, von Sturmer 1978) describe possibly longer-term residency patterns in sea country in Wik territory in any seasonal cycle and less interaction with people in Inland country.

An examination of major vegetation associations that have been mapped in Cape York Peninsula (Neldner & Clarkson 1995) shows that the extent of coastal wetlands in Wik territory is greater than that further south in Thaayore territory, and is thus probably capable of supporting people who use more prolonged residential strategies (Monaghan 2000b).

If one looks at Tindale's map of Australian Aboriginal languages (Figure 19) there is a remarkable density of languages in the Gulf of Carpentaria Lowlands compared to the rest of Australia.

Chase and Sutton (1981) raise the question of whether high dialectical diversity corresponds to high population levels. The linguistic diversity of the Gulf Lowlands region is matched by reports of very high population densities in the earlier years of this century, particularly in the Mitchell River area (for instance, Roth 1907). Gilbert White, the first bishop of the Carpentaria Anglican diocese, reported in 1903,

... an area of 500 square miles comprising the delta of the Mitchell River has been applied for as an Aboriginal reserve for a Church Mission: and should it be granted the Church will have an opportunity beginning work in the most densely populated Aboriginal centre in Queensland and probably the only one where the natives have not come in more or less disastrous contact with civilisation. The land is well supplied with native food of all kinds and the area is sufficiently large to support considerable numbers (White 1917 cited in Strang 1994).

Tramp (1935) estimated that in the 1930s there were 700 Aboriginal people in the Mitchell River area of present day Kowanyama.

Monaghan (2003b) has modelled early 20th century population size and distribution in Pormpuraaw by mapping the extents of 'seasonally available space' – that is, accessible ridge country on the coast in the wet season and proximity to permanent lagoons in the dry season. Kelly (1995) has surveyed the ethnographic literature and listed population densities for hunter-gatherer groups worldwide. The range of values that he recorded from Australian sources is between eight people per 100 km² in desert areas to 77 people per 100 km² in the North Australian tropics in eastern Arnhem Land. Estimates of 40 and 43 people per 100 km² have been recorded in western Cape York Peninsula (Chase & Sutton 1981) and in eastern Arnhem Land (Meehan 1982)



respectively. At a 20%–30% ‘carrying capacity’, a ‘rule of thumb’ used by ethnographers for estimating population distribution in relation to land area (Kelly 1995) and a population density of between 40 people per 100 km² and 70 people per 100 km², then between 260 and 350 people might be expected over the area of Pormpuraaw between the Coleman and the Kendall Rivers.

The Edward River mission had a population of 213 people in 1940 (Taylor 1979) at a time when the reserve consisted entirely of Kuuk Thaayore country, which covers approximately 42% of the seasonally available space in present day Pormpuraaw. Wik people from north of the Edward River were only occasional visitors to the mission at this time so the modelled population estimate may be a modest one.

An analysis of ethnographic mapping of traditional places and of the distribution of ‘seasonally available space’ in the Mitchell River Delta suggests that the Delta could have supported a relatively sedentary population of natural resource ‘collectors’ (Monaghan 2001). In all, it is not unreasonable to propose that if one includes the area of the Aurukun wetlands between the Kendall River and the Archer River, then the Gulf of Carpentaria Lowlands may have supported a population of around 2000 people in the early years of the 20th century. The present day Indigenous population of the region is 2340 (ABS 2001).

So the sea country of the Gulf of Carpentaria Lowlands provides:

- a stable reserve of marine resources sufficient to sustain a large population; and
- an environment of high cultural diversity in terms of language, and ritual and totemic association with the sea.

Of the 18 totemic names that have been recorded in

recent years in the Pormpuraaw Register of Traditional Owners (Taylor 2003), seven bear the names of marine species and two the names of related meteorological phenomena (Rainbow/Cyclone and Lightning), and they illustrate the persistent traditional role of sea country in present day social organisation in Pormpuraaw.

Thomson’s paper ‘The Seasonal Factor in Human Culture’ (1939) was published in a British archaeological journal because he wanted to demonstrate to his audience the wide repertoire of tools and materials that were used by people in western Cape York Peninsula to adapt to, and to exploit, wet and dry season changes in the physical environment. He wished to illustrate the point that differing types of material culture do not necessarily represent different groups of people, but may instead show differing activities by the same group of people at differing places or differing times of the year.

It was one of the first examples of ethnoarchaeology in the academic literature and to support his argument, Thomson (1939) contrasted the diversity of material culture and technology with the rich nomenclature that was used by people to describe the properties of their sea country, in particular its landforms, flora and fauna, weather and chronological change (Figure 20).



ANNUAL CYCLE OF ACTIVITIES, BASED UPON, AND REGULATED BY, SEASONAL CHANGES—WIK MUNKAN TRIBE					
SEASONS (Corresponding Calendar Months)	CHARACTERISTICS OF SEASON	ACTIVITIES	OCCUPATIONAL HITS	INCENSE TYPES (not fig. 1 and fig. 2)	PRINCIPAL FOODS
<p>The major months from about the middle of March to the end of May are the best for hunting.</p> <p>Mid-March to mid-May.</p> <p>Mid-May to late July.</p>	<p>Period of relatively unseasonable rain, beginning of "dry" season, characterized by moderate rain, but with occasional heavy showers.</p> <p>Mid-March to mid-May.</p> <p>Mid-May to late July.</p>	<p>Big game, very little shooting with small game. The best time to hunt is in the middle of the "dry" season, when the animals are fat and the weather is hot.</p> <p>Small game, especially kangaroos, wallabies, and possums.</p> <p>Small game, especially kangaroos, wallabies, and possums.</p> <p>Small game, especially kangaroos, wallabies, and possums.</p>	<p>Small game, especially kangaroos, wallabies, and possums.</p> <p>Small game, especially kangaroos, wallabies, and possums.</p> <p>Small game, especially kangaroos, wallabies, and possums.</p>	<p>Type 1, 2, and 3.</p> <p>Type 4, 5, and 6.</p> <p>Type 7, 8, and 9.</p> <p>Type 10, 11, and 12.</p>	<p>Big game, especially kangaroos, wallabies, and possums.</p> <p>Small game, especially kangaroos, wallabies, and possums.</p> <p>Small game, especially kangaroos, wallabies, and possums.</p>
<p>July (end); transitional period.</p> <p>August.</p> <p>September.</p> <p>October (end).</p>	<p>Height of "dry" season; end of the "rain" season.</p> <p>Vegetable food abundant at this time, becoming scarce and more difficult to obtain as the season progresses.</p> <p>When seasons become dry.</p>	<p>Final hunting of big game, especially kangaroos, wallabies, and possums.</p> <p>Vegetable food, especially kangaroos, wallabies, and possums.</p> <p>Small game, especially kangaroos, wallabies, and possums.</p>	<p>Small game, especially kangaroos, wallabies, and possums.</p> <p>Small game, especially kangaroos, wallabies, and possums.</p> <p>Small game, especially kangaroos, wallabies, and possums.</p>	<p>Type 1, 2, and 3.</p> <p>Type 4, 5, and 6.</p> <p>Type 7, 8, and 9.</p> <p>Type 10, 11, and 12.</p>	<p>Big game, especially kangaroos, wallabies, and possums.</p> <p>Small game, especially kangaroos, wallabies, and possums.</p> <p>Small game, especially kangaroos, wallabies, and possums.</p>
<p>October.</p> <p>November.</p> <p>December (early).</p>	<p>Climate hot; bush-land with some and small amounts to "low" rain, N.W. quarter.</p> <p>When seasons dry; surface water scarce and difficult to find in the bush.</p> <p>Likelihood, followed by bush-land, decrease approach of wet season.</p>	<p>Small game, especially kangaroos, wallabies, and possums.</p> <p>Small game, especially kangaroos, wallabies, and possums.</p> <p>Small game, especially kangaroos, wallabies, and possums.</p>	<p>Small game, especially kangaroos, wallabies, and possums.</p> <p>Small game, especially kangaroos, wallabies, and possums.</p> <p>Small game, especially kangaroos, wallabies, and possums.</p>	<p>Type 1, 2, and 3.</p> <p>Type 4, 5, and 6.</p> <p>Type 7, 8, and 9.</p> <p>Type 10, 11, and 12.</p>	<p>Big game, especially kangaroos, wallabies, and possums.</p> <p>Small game, especially kangaroos, wallabies, and possums.</p> <p>Small game, especially kangaroos, wallabies, and possums.</p>
<p>December (late).</p> <p>January.</p> <p>February.</p> <p>March (early).</p>	<p>"Wet" or very warm, resembling very a period of 4-6 months during which the great part of annual rainfall is accumulated.</p> <p>Season sets in with heavy downpours and country becomes bush-land.</p> <p>Period of maximum growth of vegetable food.</p> <p>Edible heavy rain, but of "bush-land" (bush-land) can be cropped for maintenance of heavy and scarce food.</p>	<p>Small game, especially kangaroos, wallabies, and possums.</p> <p>Small game, especially kangaroos, wallabies, and possums.</p> <p>Small game, especially kangaroos, wallabies, and possums.</p>	<p>Small game, especially kangaroos, wallabies, and possums.</p> <p>Small game, especially kangaroos, wallabies, and possums.</p> <p>Small game, especially kangaroos, wallabies, and possums.</p>	<p>Type 1, 2, and 3.</p> <p>Type 4, 5, and 6.</p> <p>Type 7, 8, and 9.</p> <p>Type 10, 11, and 12.</p>	<p>Big game, especially kangaroos, wallabies, and possums.</p> <p>Small game, especially kangaroos, wallabies, and possums.</p> <p>Small game, especially kangaroos, wallabies, and possums.</p>

Figure 21: Annual cycle of activities, based upon, and regulated by seasonal change – Wik Munkan tribe

Source: Thomson 1939



Tables 13a and 13b show a summary of the fish species that are caught by people in Pormpuraaw nowadays (Taylor 2003). The important aspects of this summary

of current fishing practice in terms of understanding traditional and contemporary sea country is that the technology that is used and the geographical context (the places where people fish from, which are mainly in the tidal arms and estuaries of rivers and occasionally on the beach front) have barely changed from those that were described by Thomson (1939).

Table 13(a): Marine species taken at Pormpuraaw

Source: Taylor 2003

Common Name	Scientific Name	Language Name	Comments
Catfish	<i>Neoarius australis</i>	Ngat thirnr	Prized food fish. Now caught off the beach and in tidal arms and rivers on handlines.
'Jewfish', Catfish eel	<i>Plotosus anguillaris</i>	Ngat thongpon	As above
Grunter	<i>Pomadasys hasta</i>		As above
Barramundi	<i>Lates calcarifer</i>	Ngat pinporro	In pre-mission times these fish were speared on the tidal mudflats, in river mouths and on the tidal wetlands (sometimes from platforms erected in trees). Nowadays the fish are mostly taken in nets and by handlines with either baits or lures.
King salmon	<i>Polydactylus sheridani</i>	Ngat puppath	Prized food fish. Generally caught on baited handlines. Occasionally taken in set nets.
Blue salmon	<i>Eleutheronema tetradactylum</i>	Ngat thirmp	As above
Various stingrays			Nowadays, stingrays are generally taken on a line or speared on the mudflats (as they were in pre-mission times). Their flesh requires a special preparation as follows. After roasting on an open fire, the flesh is stripped from the bones and squeezed then rinsed in saltwater. The resultant 'shred' is compacted into a large fish cake called Ngat turmar, which has good keeping properties.
Various sharks		Ngat Kingath	Mostly Whaler, Hammerhead and Black Tip sharks are taken off the beach and in river mouths by either heavy handline, or by spearing. The flesh is prepared similarly to that of stingrays (described above).
Mangrove Jack	<i>Lutjanus argentimaculatus</i>		Prized food fish, nowadays taken on baited handlines.

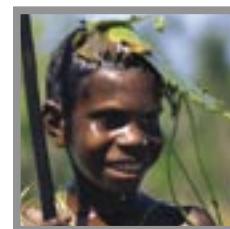


Table 13(b): Marine species taken at Pormpuraaw

Source: Taylor 2003

Common Name	Scientific Name	Language Name	Comments
Prawns	<i>Not identified</i>	Yuk wakr, yuk winye	Gathered in large numbers in bait and cast nets off the beach during their short-lived 'runs'. In pre-mission times were taken in fine-mesh scoop nets.
Mud crabs	<i>Scylla serrata</i>	Puuy	Formerly speared on the mudflats and occasionally caught on handlines. Crab pot technology is beginning to make an appearance.
Mud mussels and other shellfish	<i>Identifications not secure. Geloina coaxans (large mangrove shell), mangrove mud whelk, Telescopium telescopium</i>	Yuk tha'ay, yuk nik, yuk pepprr, Yuk thaawpantjir	Mud mussels (yuk tha'ay) were, and still are, sought in the muds of mangrove stands, while gastropods found on the mangroves themselves (yuk nik) were also harvested as along with mangrove oysters (yuk pepprr). A bivalve (yuk thaawpantjir) was taken from the beach mudflats exposed at low tide.
Flathead	<i>Not identified</i>	Ngat ngupath	Occasionally caught on baited handlines. Not a prized fish and often thrown back.
Diamond scale mullet	<i>Liza vaigiensis</i>	Ngat mirk	Often speared.
Bait mullet	<i>Mugil georgii</i>	Ngat pinpan	Cast nets and small mesh dragging nets are used to catch the live bait favoured by handline fishers.
Queenfish	<i>Chorinemus lysan</i>		Generally caught on handlines these days. More likely to have been speared in earlier times.
Boney bream	<i>Not identified</i>		
Bream	<i>Acanthopagrus berda</i>	Ngat ripirr	Frequently caught on handlines.
Groper	<i>Promicrops lanceolatus</i>	Ngat kaalwerrkr	Juveniles generally caught on handlines in tidal arms. Occasionally a large groper would strand itself on shore. The flesh would be treated as for stingrays.
Spotted Jewfish	<i>Johnius diacanthus</i>		A good food fish, they are generally caught on handlines nowadays.
Mackerel	<i>Indocybium semifasciatum</i>	Ngat korkun	Occasionally small school mackerel are caught in creek and river mouths. Very seasonal.



A similar persistence of traditional fishing technology and practices is evident at Kowanyama where, as at Pormpuraaw, the marine resource control technologies based on totemism and ritual at increase sites and poison places that were recorded by ethnographers in the early and middle years of the 20th century still prevail. These present day practices will be considered later in this review.

2.2 Arafura Sea Region

Other than *Footprints along the Cape York Sandbeaches* (Sharp 1992), there is barely any literature on earlier 20th century Aboriginal concepts of, or use of, sea country for the Arafura Sea region. The papers, *A Tangled Web: Management of Land and Sea at Old Mapoon* (Cooke & Guivarra 1995), *The Communities of Northern Cape York (NPA)* (MacIntyre & Greer 1995), *The Sea of Waubin: Customary Marine Tenure, Traditional Knowledge of the Marine Environment, and Contemporary Fisheries Problems in the Waters Surrounding the Kaurareg Islands* (Southon & Kaurareg Tribal Elders 1995) and *'Indigenous Peoples and the Marine Environment of Cape York Peninsula'* (Smyth 1995) refer to the region and are compiled in the CYPLUS report, *Indigenous Management of Land and Sea and Traditional Activities in Cape York Peninsula* (Cordell 1995).

One of the probable reasons for this gap in the literature may be that all of the communities in the Arafura Sea region were subject to greater social dislocation when the Queensland Government displaced people from their traditional country to other locations in the State, and introduced Aboriginal people and Torres Strait Islanders from other communities into newly established settlements in social engineering experiments during the 20th century. In contrast, Traditional Owners in the Aurukun, Pormpuraaw and Kowanyama communities have lived in their country continuously, and have experienced fewer major perturbations from the outside world. This relative stability may be the reason for Gulf communities being a greater focus of 20th-century Aboriginal research interests in Cape York Peninsula than the communities in the Arafura Sea region.

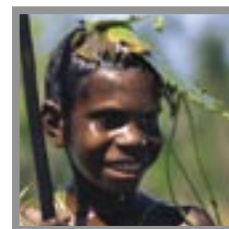
Except for visits by Thomson to present day areas of Mapoon (Old Mapoon), Napranum and Injinoo in 1934, and the mission diaries and government memoranda and observations of the 1898 Haddon expedition to the Torres Strait and the northern Peninsula region (summarised in Sharp 1992), there is a dearth of accounts of earlier 20th-century life in the Arafura Sea region. All of the recent papers emphasise the persistence of traditional concepts of sea country and marine resource procurement practices in present day community life. They also describe the availability of the marine resources to all community members, whether Traditional Owners or 'historical people' whose parents or grandparents came to live in the region from other Aboriginal or Torres Strait Islander communities.

The marine resource procurement technologies and social and cultural orientations to sea country in the Arafura Sea are different from those in the Gulf of Carpentaria. The apparent differences between the two regions are:

- greater use of boats to access the open sea
- procurement of a wider range of sea life (notably of dugong)
- gender roles in procuring sea life (for instance only men catch dugong and turtle)
- seascapes that include the location of totems and story sites and myths at islands, reefs and rocks in the sea; as well as in places on the beach and in estuaries and other coastal wetlands.

These circumstances apply in particular to communities north of the Mission River and of Napranum and Weipa. There is a case for putting Napranum into the Gulf of Carpentaria region on the basis of affiliations that people there have with people further south, but its marine interests are more in the Arafura Sea marine region, and its history and demographic and land tenure characteristics are more akin to the northern than the southern communities on the west coast of Cape York Peninsula. Nonetheless, traditional Aboriginal use of the marine environment in the Weipa/Napranum area has also had a strong estuarine focus which is evident in the topographically outstanding shell midden deposits around the Embley River estuary (Bailey 1977).

People in Mapoon (Old Mapoon) continue to express their identity through totemic affiliations, many of which are located at places in the sea. Cooke and



Guivarra (1995) describe the role of reefs and islands as story sites and as hunting places for Mapoon people. The hero in the local culture, Sirirri from Langannamma, is credited with the invention of the outrigger canoe and for then taking it to islands in the Torres Strait. Older people recall the use of outriggers and single hull boats before the Second World War. Dinghies replaced these in post-war years (Cooke & Guivarra 1995). In 1934, Thomson remarked on the prowess of Tjungundji people, one of the traditional land-owning language groups of the present day Mapoon DOGIT area, at boat building for both river and sea traffic. The sea is the major source of subsistence and of cultural and ritual association at the other northern Peninsula communities of Bamaga, Seisia, New Mapoon, Injinoo and Umagico (MacIntyre & Greer 1995).

The Kaurareg islands and its surrounding waters are referred to as 'Waubinin Malu'. Waubinin was one of a number of mythological figures who marked the extent of sea country at eponymous rocks, reefs and islands.

In the north the Kaurareg sea extended as far as the channel between Warrar (Hawkesbury Island) and Dollar Reef (Dollar reef belonged to the people of Moa). On the south side of Hawkesbury Island is a rock which represents Pitulai, a warrior who fled Muralag Island, driven by the ever-jealous Waubin. On the west side of the island lies another rock which represents Ibibin, another warrior who fled Muralag for the same reason. These two mythological figures are said to mark the northern extent of the Kaurareg sea territory (Southon & Kaurareg Tribal Elders 1995).

Sharp (1992) cites sources that describe frequent sea journeys in double-hulled canoes in the 19th century and early years of the 20th century between the Ducie, Dulhunty and MacDonald rivers on the west coast. These journeys were undertaken to visit people in the Cowal Creek/Injinoo and Jardine River areas of the north coast, and Lockhart River and Princess Charlotte Bay on the east coast of the Peninsula. Journeys for fishing, social visits and trade also extended from these areas to include islands of the Torres Strait and the sea country of the Kaurareg people. For instance, Sharp (1992) cites reports of initiation ceremonies by Gudang people from the mainland at Muri (Mount Adolphus) Island in the Torres Strait. Marriage alliances between west coast and east coast and island families were also a regular part of life in the region. These networks are still a feature of contemporary Aboriginal life in the

northern Peninsula area (MacIntyre & Greer 1995). A seasonality to traditional life, similar to that described by Thomson for the Gulf of Carpentaria region, is also indicated in early reports from the region (Sharp 1992), with people camping together for extended periods of time during the monsoon season. At other times, when the possibility of a cyclone was imminent, people from throughout the northern Peninsula region and the Kaurareg islands would come together to shelter in the area of the present day Injinoo community.

As well as social networks that are maintained by the use of sea country, a rich nomenclature also continues to be used to describe the physical properties of the sea, such as the differing kinds of tides and the times of the year and the wind conditions under which they occur. Sea currents are also named as they are caused by ancestral spirits and their speed can be slowed with the offering of gifts:

One of the most important institutions in Kaurareg society was the kerrnge, a school whose function was the transmission of mythology and traditional knowledge about the marine environment from elders to young men (Southon & Kaurareg Tribal Elders 1995).

A detailed sea and celestial chronology still guides marine resource use in Kaurareg sea country and in the rest of the northern Peninsula area:

In the middle of the northwest (kuki) season – in the month of January – two stars appear in the early morning. These stars represent the mythological figure Dogai, a woman who 'gathers every tucker from the sea and puts him in one place'. The appearance of Dogai signals that the jellyfish are gone and that it is safe again to eat fish. After these stars appear, shallow waters are said to be teeming with fish and other marine life (Billy Wasaga in Southon & Kaurareg Tribal Elders 1995).

The use of such knowledge in present day marine resource management in the Arafura Sea region is described later in this review.



3. SALTWATER PEOPLE IN WESTERN AND NORTHERN CAPE YORK PENINSULA

A total of 4510 people were counted in western and northern Cape York Peninsula in the national 2001 Census. In communities outside of Weipa, 91% of this population identified themselves as Indigenous Australians in the census (ABS 2001). Weipa has a population of 2487, of whom 299 are Indigenous people.

Tables 14a, and 14c–f show the population size and basic social indicators for the above-mentioned community census areas in 2001 (ABS 2001). These summaries show larger households, lower incomes and higher dependency on the welfare economy in the form of employment in Federal Government funded Community Development Employment Programmes (CDEP) than in the Indigenous population of the rest of Australia (Table 14b). Overall,

western Cape York Peninsula has a young population with median ages lower than those in the rest of Indigenous Australia. The northern communities, which predominantly comprise people who identify themselves in the census as being of Torres Strait Islander origin, have extraordinarily low median age values, which can only point to considerable future growth in their populations.

Another distinctive characteristic of Indigenous communities, as well as their youth and their poverty, is in their social networks and the mobility of people both within and between communities. The age and gender profiles for each community census area (Figures 22a–h) demonstrate many deviations from the pyramid shape that is expected of a typical residential population. The mining township of Weipa has a distinct bulge in the 30 to 55 age range (Figure 22d), which is probably indicative of the demography of the short-term residential population that works in the bauxite mining industry there. Pormpuraaw and Kowanyama (Figures 22a and b) also have bulges in the 25–40 age range, which may reflect mobility in the form of the short-term or long-term migration of people between communities

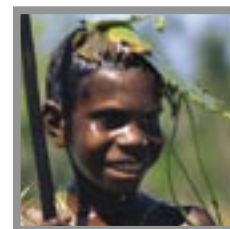
Table 14(a): Social indicators for western and northern Cape York Peninsula

Source: ABS 2001

COMMUNITY	Total population	Indigenous population	Indigenous median age	Indigenous median weekly individual income	Indigenous mean household size	Indigenous median weekly household income	Year 12 (%)	CDEP (%)
Kowanyama	890	820	26	\$160–\$199	5.4	\$600–\$699	13%	71%
Pormpuraaw	649	575	28	\$200–\$299	4.6	\$800–\$999	3%	88%
Aurukun	1047	945	24	\$120–\$159	6.0	\$600–\$699	6%	91%
Weipa*	2487	299	31	\$700–\$799	2.8	\$1200–\$1499	24%	n/a
Napranum	727	676	23	\$160–\$199	4.1	\$400–\$499	8%	82%
Mapoon	215	189	26	\$160–\$199	6.1	\$500–\$599	12%	n/a
New Mapoon	327	305	16	\$160–\$199	5.1	\$500–\$599	21%	73%
Injinoo	385	376	18	\$160–\$199	5.0	\$600–\$699	18%	48%
Umagico	254	237	20	\$160–\$199	4.2	\$500–\$599	21%	87%
Bamaga	774	638	19	\$200–\$299	4.2	\$800–\$999	33%	37%
Thursday Island	1049	809	18	\$400–\$499	4.9	\$800–\$999	25%	0

n/a = not available

* It is likely that this figure includes Indigenous and non-Indigenous individual income.



on the west coast; the same phenomenon may account for the appearance of the Mapoon profile, a community which historically had its residents forcibly removed to New Mapoon by the Queensland Government in 1963 and where there has been some return of that diaspora and their families since the 1970s. The community that is closest to the expected age/gender profile is Aurukun (Figure 22c) and movement out to dry season camps or outstations is a characteristic of this community (Chase & Sutton 1981), though it may be that such movement at Aurukun occurs mainly within that Shire area.

Table 14(b): Comparative basic social indicators for Australia

Source: ABS 2001

National median age = 35
National Indigenous median age = 20
National median weekly individual income = \$300–\$399
National weekly Indigenous individual income = \$200–\$299
National mean household size = 2.6 persons
National mean Indigenous household size = 3.4 persons
National median weekly household income = \$700–\$799
National Indigenous median weekly household income = \$600–\$699
National year 12 % = 38%
National Indigenous year 12 % = 17%
National CDEP % = n/a

Table 14(c): Social indicators for southern Gulf Lowlands

Source: ABS 2001

COMMUNITY	Total population	Indigenous population	Indigenous median age	Indigenous median weekly individual income	Indigenous mean household size	Indigenous median weekly household income	Year 12 (%)	CDEP (%)
Kowanyama	890	820	26	\$160–\$199	5.4	\$600–\$699	13%	71%
Pormpuraaw	649	575	28	\$200–\$299	4.6	\$800–\$999	3%	88%



PART B: SALTWATER PEOPLE

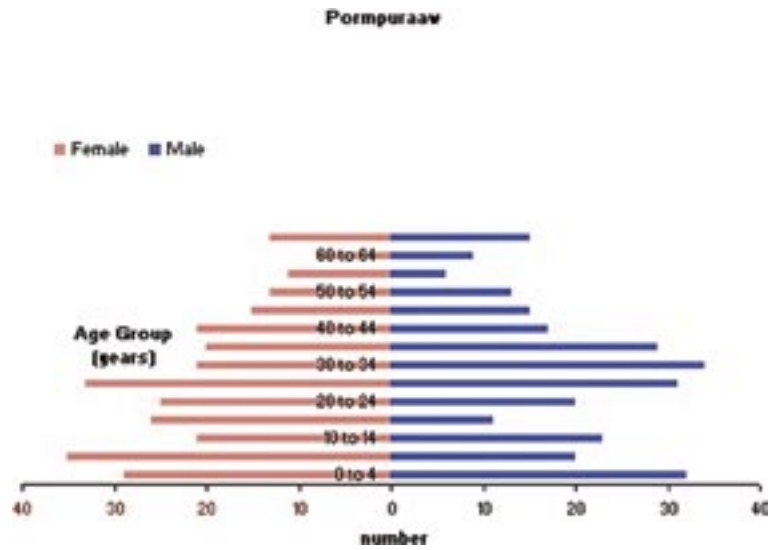


Figure 22(a): Age and gender profiles for Pormpuraaw

Source: ABS 2001

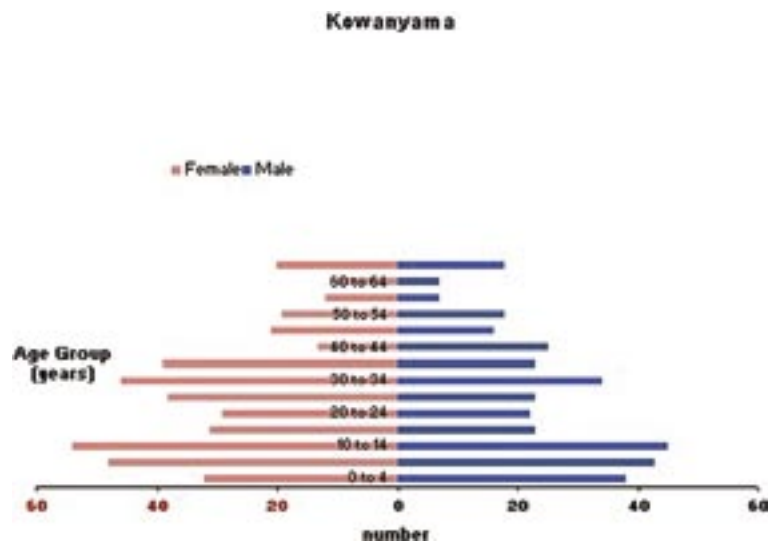


Figure 22(b): Age and gender profiles for Kowanyama

Source: ABS 2001

Table 14(d): Social indicators for northern Gulf Lowlands (ABS 2001)

COMMUNITY	Total population	Indigenous population	Indigenous median age	Indigenous median weekly individual income	Indigenous mean household size	Indigenous median weekly household income	Year 12 (%)	CDEP (%)
Aurukun	1047	945	24	\$120–\$159	6.0	\$600–\$699	6%	91%

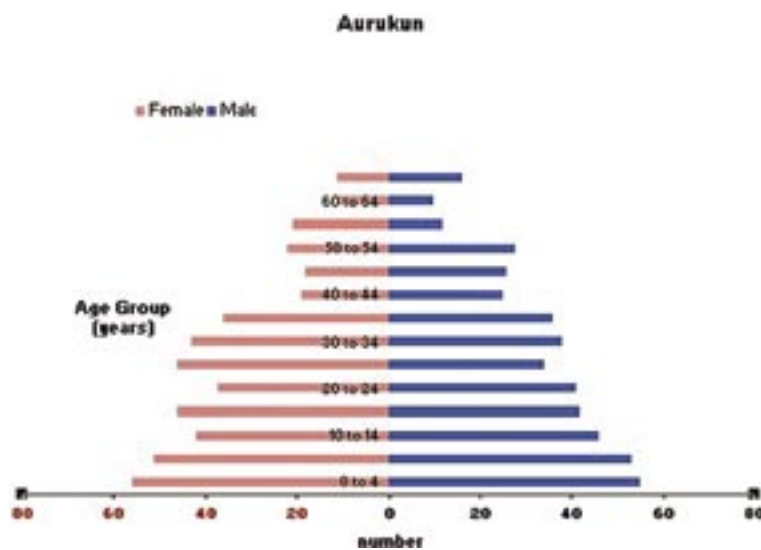
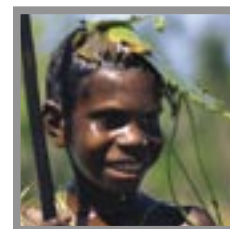


Figure 22(c): Age and gender profiles for Aurukun

Source: ABS 2001

Table 14(e): Social indicators for Weipa/Napranum region

Source: ABS 2001

COMMUNITY	Total population	Indigenous population	Indigenous median age	Indigenous median weekly individual income	Indigenous mean household size	Indigenous median weekly household income	Year 12 (%)	CDEP (%)
Weipa*	2487	299	31	\$700–\$799	2.8	\$1200–\$1499	24%	n/a
Napranum	727	676	23	\$160–\$199	4.1	\$400–\$499	8%	82%

* It is likely that this figure includes Indigenous and non-Indigenous individual income.

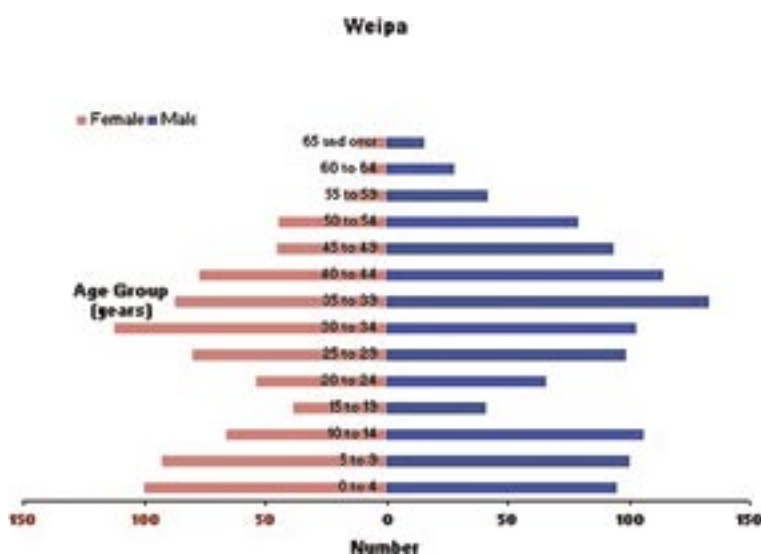


Figure 22(d): Age and gender profiles for Weipa

Source: ABS 2001



PART B: SALTWATER PEOPLE

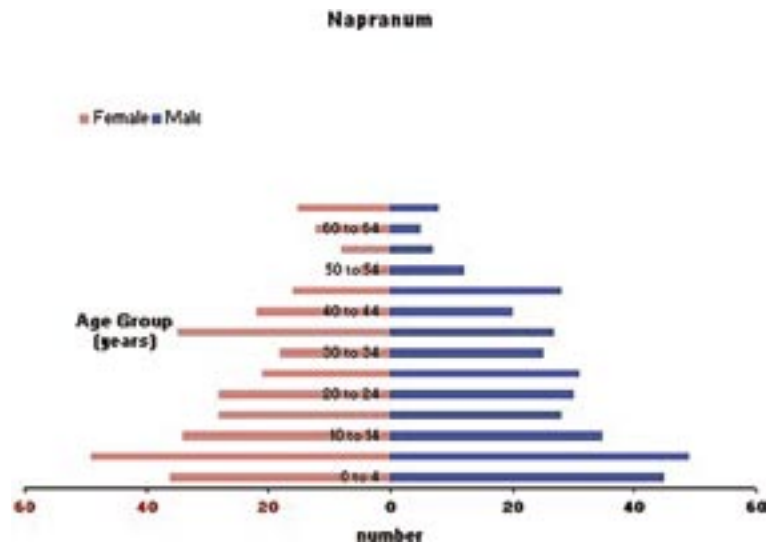


Figure 22(e): Age and gender profiles for Napranum

Source: ABS 2001

Table 14(f): Social indicators for Northern Peninsula region

Source: ABS 2001

COMMUNITY	Total population	Indigenous population	Indigenous median age	Indigenous median weekly individual income	Indigenous mean household size	Indigenous median weekly household income	Year 12 (%)	CDEP (%)
Mapoon	215	189	26	\$160–\$199	6.1	\$500–\$599	12%	n/a
New Mapoon	327	305	16	\$160–\$199	5.1	\$500–\$599	21%	73%
Injinoo	385	376	18	\$160–\$199	5.0	\$600–\$699	18%	48%
Umagico	254	237	20	\$160–\$199	4.2	\$500–\$599	21%	87%
Bamaga	774	638	19	\$200–\$299	4.2	\$800–\$999	33%	37%
Thursday Island	1049	809	18	\$400–\$499	4.9	\$800–\$999	25%	0

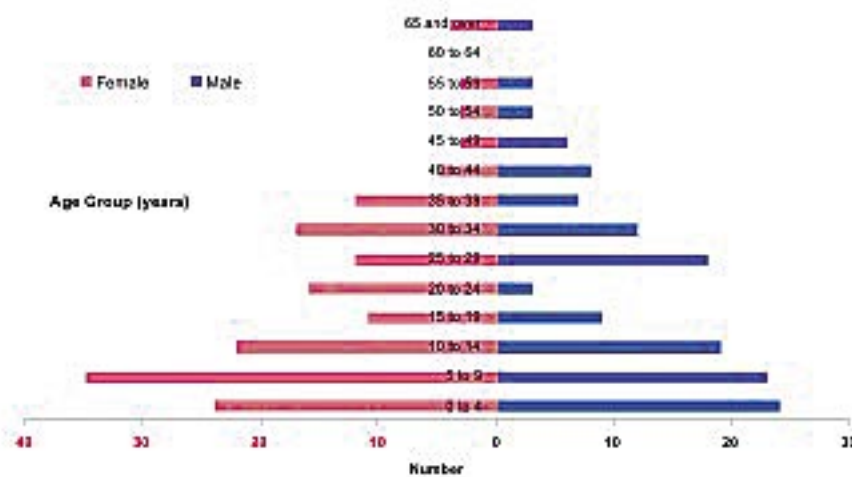


Figure 22(f): Age and gender profiles for New Mapoon

Source: ABS 2001

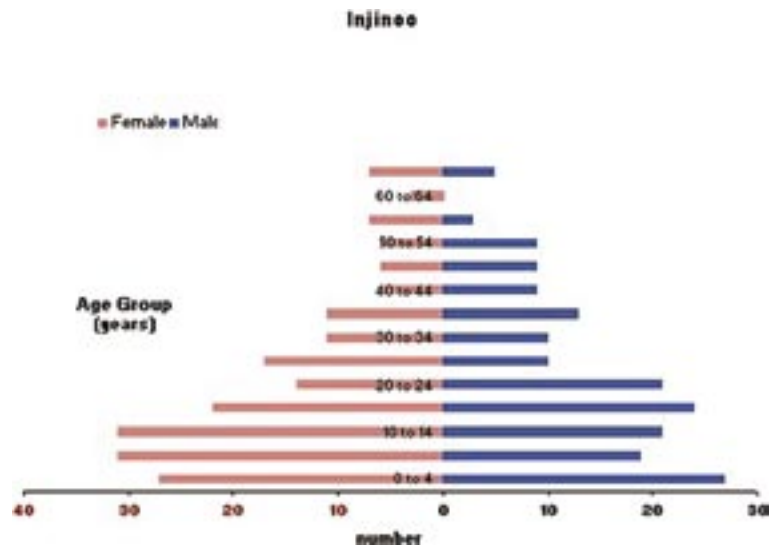


Figure 22(g): Age and gender profiles for Injinoo

Source: ABS 2001

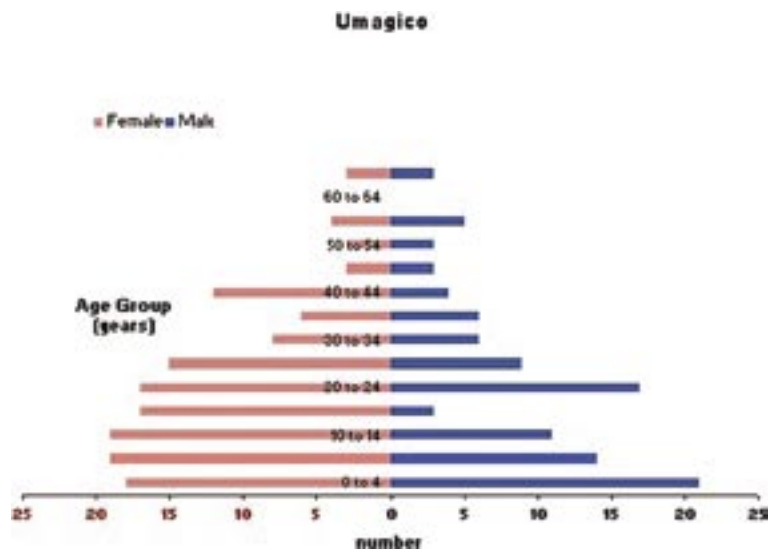


Figure 22(h): Age and gender profiles for Umagico

Source: ABS 2001

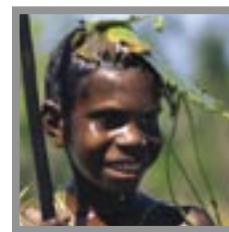


There is close contact between Yir Yoront and Thaayore people in Pormpuraaw and Kowanyama that predates the establishment of both missions in the early 20th century (Sharp 1937). This contact is maintained by frequent visits between people of both communities. The dry season is the time of highest mobility. Funerals or house openings in the dry season can mean that between 40 and 60 people from either community may arrive, some of them staying on for weeks or months with their relatives in either community. Kokoberrin people in Kowanyama also regularly visit or receive visitors from their families 250 kilometres further south down the coast in Normanton. Pormpuraaw has two distinct language groups amongst its residents who occupy separate neighbourhoods in the township, the Thaayore side and the Mungkan side. There is a recurring turnover of Mungkan-side residents over time-cycles of months or years, with either families or single men arriving from or departing for Aurukun, or less frequently going to Coen in the central Peninsula, where some of their kin also reside (Taylor & Anderson 1996, Monaghan & Taylor 2003).

The Northern Peninsula townships of Bamaga and Seisia, Injinoo, New Mapoon and Umagico are close to each other, and mobility behaviour between them tends to fall into two groups, with Bamaga being a part of both networks. The Kaurareg nation have island homes centred on Horn Island, Prince of Wales Island and Thursday Island in the Torres Strait, but identify as a unique Aboriginal saltwater people with close affiliations to Aboriginal people on the mainland. Bamaga and Seisia are communities of mainly Islander people. They were established after the Second World War with the relocation of people, mainly from Saibai Island, in the Torres Straits (MacIntyre & Greer 1995). Saibai people trade regularly by sea with Papua New Guinea. The other communities are also post-war creations whose residents were relocated there by the Queensland Government from other Aboriginal or Islander communities in the north (Sharp 1992). These removals and relocations have made the northern Peninsula a cosmopolitan area of Aboriginal and Torres Strait Islander people with traditional and historically recent affiliations to the region, where people move between communities

and marine resource areas such as beaches or islands. It seems that such movement is easier in sea country than further inland. MacIntyre and Greer (1995) describe the difficulties that some people face in gaining access to 'inside' or inland natural resources that have been traditionally and historically available to people, but where access is now precluded by those community administrative boundaries that were introduced in the post-war years. Similar constraints to movement to and around traditional country are encountered by Indigenous people in Mapoon and Napranum because of mining leases that were introduced there in the 1950s and the 1960s.

Mobility also occurs within community areas. Families may have a dry season camp where they stay for periods of a few days or many weeks (Monaghan 2003d). Camping trips tend to follow pay days or pension days when people stock up on supplies such as sugar, tea, flour, fishing line and bullets, and then 'go bush'. Hunting and fishing are major pastimes on these trips, mainly to supplement a diet based on the community store where fresh food is expensive and, at times in the wet season, in short supply. During school holidays or following a CDEP pay day in either Pormpuraaw or Kowanyama the township can appear deserted. Some people, in particular the elderly, mothers and young children, choose to stay out in the bush for weeks on end, while members of their families who are employed in town join them on the weekends. There are higher rates of truancy from community schools throughout the dry season months. This is not a recent phenomenon as extended dry season 'holidays' in the bush were also a feature of community life in the 1960s and the 1970s (Taylor 1984, von Sturmer 1978). Camp sites may be casually established, with the setting up of a tent or a tarpaulin shelter, which is then removed at the end of a visit. Other campsites, at Kowanyama for instance, are almost permanent structures of timber, canvas and star-picket construction and their occupants may not necessarily be Traditional Owners of the country but families who have been given permission to go there. In some cases this permission has been extended to particular families and places over a period of many years – often because their traditional country is inaccessible because it lies a considerable distance from the community township (Monaghan 2003c).



Regular fishing spots, 'dinner' camps and other camp places are features of the coastal landscape throughout western Cape York Peninsula. Friends and relatives of Indigenous families at Napranum, Mapoon and the northern Peninsula communities may come to visit from communities elsewhere in north Queensland in the dry season. Visitors to Mapoon from Seisia and New Mapoon arrive by boat (Cooke & Guivarra 1995), a four-hour journey, which is presumably also undertaken in the wet season. Boats are occasionally used by Traditional Owners at Pormpuraaw to access their respective homeland sites in the wet season, when travel by road is impossible for between three and six months in any year (Monaghan & Taylor 2003).

All of the communities in western and northern Cape York Peninsula, except Kowanyama, are located on the coast and, in the wet season in particular, marine resources provide the only form of subsistence at a time of year when fresh food is in short supply and expensive at the community retail store as it can only be delivered by air or by sea by barge. In the wet season, people at Pormpuraaw go to either the mouth of the Chapman River or the mouth of the Mungkan Creek to fish, depending on their language affiliation and when there is a big 'run' of fish or prawns in the Gulf waters people will fish from the beach when, again like their household or residence in town, their location on the beach corresponds broadly with their clan affiliation. In Kowanyama, during periods in the wet season when rainfall has abated, people will wade out into the country to collect birds' eggs or to fish, and also to escape the boredom and occasional rigours of township life that result from being cut off from the surrounding countryside by wet season floodwaters.

The focus of community political life in most of Cape York Peninsula is on the establishment of homelands or outstations away from the township for family groups to live on. The terms 'homeland' and 'outstation' are used alternately by many Aboriginal people to describe small settlements that are regarded as places for permanent occupation, established in places where the occupants have traditional rights of access, and which are recognised by the rest of the community.

Decisions about where to locate homelands in the southern Gulf Lowlands (Kowanyama and Pormpuraaw), and who should have access to them, have all been based on local criteria and on negotiation between Traditional Owners, and have not involved any government agency to date. The same circumstances appear to apply to homeland establishment in the rest of the Peninsula (see Cooke 1995). Socially, homeland groups are invariably identified either by the name of their leader (for instance Larry or Ezra), the surname of the dominant affiliate family (the Gilberts or the Colemans), or by the name of the place or country where their homeland site is located (Ngakayengka or Scrubby Bore). Affiliation, based on mother's country or father's country, underwrites the setting up of a homeland. The endorsement of all of the people with these affiliations is always sought before a homeland group proposes to establish a site. The Traditional Owners of a proposed site may already be resident at a homeland site elsewhere, or have no interest in a current homeland enterprise. Nevertheless, their validation of a homeland proposal is required. The homeland group leader's immediate kin, and those of any of their brothers and sisters, and the partners and offspring of any of their children, are usually the people who will live at a homeland site. Otherwise, membership of a homeland group is by invitation. People do not put themselves forward and ask to join a homeland group. If there is a sufficient number of uninvited people who are proximally related in both a geographical sense to country, and in a social sense to family, then they may form their own homeland group and look for a homeland site elsewhere within that region. It is generally accepted that any person can only have access to one homeland, though some people help with the establishment of a homeland and then move on to their own traditional country to establish their own homeland, often with the moral and practical support of those people that they have helped (Monaghan 2003c).

The role of the leader and their capacity as a broker in reconciling secular and traditional interests in their homeland country, and in negotiating for homeland services with the Community Council or with government agencies, is crucial to the success of a homeland group. Three or four homeland groups may



PART B: SALTWATER PEOPLE

combine to form a 'mutual society' of support for their members. This is particularly so in sea country. These societies prioritise homeland development plans between themselves and make plans for enterprises such as cattle grazing, aquaculture or fish ranching, or tourist fishing camps, in order to sustain their homelands in the future (Monaghan 2003c). Though these planned enterprises are modest in size and in financial investment, they involve considerable areas of sea country. These homeland 'societies' occupy geographically contiguous areas. Those homelands in sea country share strong clan associations and also have the strongest corporate identities in community life. Their 'focal' leaders, of which there are four or five in Kowanyama and in Pormpuraaw, exercise considerable influence (Monaghan 2003d) and their groups are the basic operational units in community natural resource planning and management in sea and inland country on the southern Gulf Lowlands. Similar autonomous groups have been described throughout the Gulf of Carpentaria Lowlands of Cape York Peninsula (Sutton 1978, Taylor 1984, von Sturmer 1978). Over 20 homelands have been established in Kowanyama since 1998 and another 13 have been established in Pormpuraaw since 1986. They are usually at locations where families have maintained their traditional links

to country in the occupation of temporary seasonal shelters or camp sites over the years. Many of these sites now have more permanent shed-like structures on them, which are set in concrete foundations and which have diesel generators to supply electrical power, a fresh water supply from rainwater tanks, toilet and shower facilities, and a communal cooking area. Each homeland usually has space for between 15 and 20 residents. Some homeland groups have plans to build houses that may accommodate more than 40 people and almost all homelands have aspirations to set up their own enterprises and exercise greater control over natural resource use in their homeland area (Monaghan 2003d).

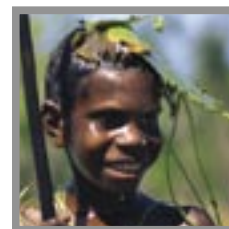
The most current analysis of homeland distribution in Cape York Peninsula in 1995 (Cooke 1995) shows that almost all of them are located either on the coast or in saltwater country close to the coast. In an appendix to his report Cooke reports 22 sites at Aurukun, 19 at Mapoon, six at Injinoo and seven at Napranum.

Suchet (1995) describes a strong homeland movement in Napranum, where people are keen to return and live in their traditional country in order to restore their country from the effects of mining and to allow people to develop their Aboriginal identity.

Table 15: Dependency ratios in western and northern Cape York Peninsula community census area

Source: Based on ABS 2001

COMMUNITY	Population aged < 15 (%)	Population aged > 65 (%)	Total dependant population (%)
Indigenous Australia	39.5	3	42.5
Non-Indigenous Australia	20	12.5	32.5
Kowanyama	42	0.5	42.5
Pormpuraaw	27	5	32
Aurukun	33	3	36
Napranum	37	3	40
Mapoon	34	9	43
Injinoo	41	3	44
Umagico	41	2	43
Bamaga	43	4.5	47.5



The way in which traditional land owners are re-asserting their links to country through current strategies, aspirations and resource management initiatives can be viewed as the beginning of an Aboriginal-centred local development plan. The local groups seek to increase the control they exercise over local resource use and management (Suchet 1995).

Access to country is a major part of personal well-being and a healthy lifestyle. It is also increasingly recognised in government funding of community services such as police, health and education as a factor to help resolve health and lifestyle problems, and to reduce general 'wear and tear' in community housing and infrastructure. According to Apunipima, the Indigenous-administered Cape York Peninsula health agency, more than half of the adult Aboriginal population in the region drink alcohol at harmful or hazardous levels, and the same proportion do not eat enough fruit and vegetables to stay healthy. Suicide by young people is a major problem. People's aspirations for sea country are discussed later on in this review but, apart from a concern to manage the marine resource from their homelands, an overwhelming role for sea country is the remediation of social problems. It is a place where children can have a happy home and a healthy lifestyle.

Table 15 shows the dependency ratios for each of the community census areas in western and northern Cape York Peninsula. These statistics are characteristic of those of a developing country and they demonstrate the responsibility that each community has for a large population of young people. They also illustrate the scale of concern of parents and Elders about their children's futures.



4. CLAIMING SEA COUNTRY IN WESTERN AND NORTHERN CAPE YORK PENINSULA

There are two systems of land tenure in Cape York Peninsula. One consists of a legal framework of reserved lease areas set up by the Queensland Government in the nineteenth century, and over which a number of Land Acts that stipulate conditions of tenancy and use have since been imposed. These Acts have been used to prescribe areas of pastoral, mining, national park or Aboriginal use in Cape York Peninsula. The other tenure is based on Indigenous systems of social organisation that permit how, and by whom, land may be used. Clan affiliations assign responsibility for areas of countryside to landholding groups or individual people that are embedded in physical markers in the landscape, such as lakes, lagoons and trees. Social organisation and clan affiliation are reproduced through kinship, and a totemic system and mythology whose elements, including clan totems and personal names and 'creation stories', are embodied in the same physical features and places in the landscape. The historical and geographical circumstances in which these separate tenures have intercalated over the last hundred years or so, has led to the distinctive identity that each community in the western and northern Peninsula area has today, where local Indigenous systems of governance and of natural resource management are markedly different, even between adjacent communities (Monaghan 2003c).

The following events in the European land tenure history of western Cape York Peninsula have determined the natural resource ownership and use conditions that prevail over sea country today:

- the establishment of church missions in the late 19th and early 20th centuries
- State Government and the DOGIT tenure from 1968 to 1986
- the transfer of the DOGIT tenure to locally elected community councils in 1986 and 1987
- the Aboriginal Land Act 1991 (Qld) and the Native Title Act 1993 (Clth)
- the Cape York Peninsula Land Use Study (CYPLUS).

4.1 Mission time

Cape Keerweer in Aurukun Shire is often cited as the first landfall by Europeans in Australia in 1606. European interest in Cape York Peninsula became evident in the mid-19th century. The west coast of the Peninsula was first surveyed and mapped in the early 1860s. The first cadastral map of the area, published in 1885, shows a 30-mile-wide strip of land along the Gulf of Carpentaria coastline that had been set aside as a 'Settled District'. This 'District' corresponds approximately with the extent of the present day Kowanyama and Pormpuraaw DOGIT and Aurukun Shire areas. At about the same time, the pearl and beche-de-mer fishing industry based at Thursday Island became operational, the Peninsula cattle industry was started with the Jardine expedition to Somerset in 1864, and gold exploration started in the Palmer River goldfields in the 1870s. Aboriginal labour was recruited from the west coast of Cape York Peninsula into the Thursday Island beche-de-mer and pearling industry in the 1860s (Smyth 1995). Sandalwood traders also 'took' young men away from the Holroyd/Kendall River and Love River areas of present day Pormpuraaw and Aurukun to work on their boats (Bob Holroyd, pers. comm.).

On the east coast, the traders brought with them a combination of recruitment, disease and forced prostitution of women. This had a disastrous effect on coastal societies, and the fishermen had to progressively move their recruiting grounds further north (Smyth 1995).



By 1897 the north-east coast of Cape York Peninsula had been 'worked out', (i.e. there were no more Aboriginal people left in the area to recruit) and the boats were resorting mainly to the Batavia River at Mapoon on the west coast. Further south the Weipa area was just being opened up. The passing of the Aboriginal Protection Act of 1897 eventually saved the Aborigines south of Mapoon from the worst ravages of the fisheries (Loos 1994 cited in Smyth 1995).

Further south in the Mitchell River area, local Aboriginal resistance to European occupation has been recorded with one fatality in the Leichardt expedition of 1845 (cited in Taylor 1999), and again with other expedition members lost in an encounter between the Jardine brothers on their journey northwards to Somerset at the 'Battle of the Mitchell River' in 1864, where up to 74 Aboriginal people may have been killed (Loos 1994 cited in Smyth 1995, Strang 1994). In 1889, pastoralists in the southern Peninsula area petitioned the Government to set up a mounted Native Police regiment at the Highbury pastoral lease. Both this and the neighbouring Dunbar pastoral holding, about 90 kilometres from the present day Kowanyama township, became bridgeheads for the suppression of local Aboriginal resistance to pastoral expansion in the lower Peninsula and upper Gulf country.

The Presbyterian Church and the Anglican Church of Australia made petitions to the Queensland Government and attempted to set up missions as refuges for Aboriginal people in the west of the Peninsula in the 1890s. The Protection of Aborigines and Prevention of the Sale of Opium Act 1897 (Qld) eventually provided the mechanism to do this. Part of the title of the Act implies that the genocidal acts of pastoralists and miners against Aboriginal people at the turn of the century were causing concern to the government of the day. The other part of the title reflects some of the conditions at the time amongst the European population on the Far North Queensland frontier. The Act was used to establish the Settled District as a Reserve for the Benefit of the Aboriginal Inhabitants of the State under the office of the Chief Protector of Aborigines.

The first missions were set up by the Presbyterian church at Mapoon in 1891, and at Weipa and Aurukun in 1904. The Kowanyama and Pormpuraaw communities were set up by the Anglican church and started life as the Mitchell River and Edward River missions in 1903 and 1939 respectively. Gribble made two packhorse expeditions from Yarrabah, near Cairns, to the Mitchell River area in the 1900s and describes the physical resistance he encountered along the way to his Anglican mission from miners in Chillagoe and in Palmer River townships (Gribble 1933). Attempts to massacre Aboriginal people continued into the 20th century. In a letter of 8 September 1921, from the Chief Protector of Aborigines to the Under Secretary of the Home Secretary's Department in Brisbane, concerning an application to take up a pastoral lease:

... there are about 300 natives roaming on this country, and when the company starts operations the natives will doubtless be hunted off ... I would strongly urge that, before allowing anyone else to obtain possession this Department be first consulted as regards the need for reserving the area for native purposes (cited in High Court of Australia, 1996).

This letter describes conditions in an area that is part of the present day Pormpuraaw DOGIT. The Edward River Mission was eventually set up in 1939, after a number of earlier attempts, at the request of the Aboriginal people from that area who approached the Mitchell River mission on a number of occasions over the years (Taylor 1984).

In the absence of any financial support from the Queensland Government, a recurring issue for all of the missions was the provision of food and shelter, and health and education services (Kidd 1997). Hence, the missions had their own cattle herds and vegetable gardens, and when supplies were low people were sent out into the bush to forage for food. Even though the churches had their own spheres of geographical influence over adjacent communities, each mission operated in relative isolation and this helped to maintain the distinct tribal identities that people have today (Monaghan, 2003c). It also ensured a distinct community identity:



Aboriginal people identify themselves as being part of Aurukun or Pormpuraaw or Kowanyama 'mob' (see MacIntyre & Greer 1995 for a comparable suite of tribal and community identities in Injinoo). Tribal identity was also enhanced by changes to mission boundaries over the years, as different groups were included in each community. Yir Yoront people did not start coming into the Mitchell River mission (Kowanyama) in any significant numbers until they were forcibly relocated there by police in the late 1930s, and Kokoberrin and Kunjen and Olkola people did not come into Kowanyama from the pastoral properties on which they lived in their traditional country until the 1960s and 1970s. The late arrivals were nevertheless part of social networks in the southern Peninsula and Gulf country that pre-dated the establishment of the missions (Colin Lawrence, Paddy Yam, Kenny Jimmy pers. comm.). People lived in distinct tribal neighbourhoods or 'villages' in Kowanyama until the mid-1960s (Barry Alpher, pers. comm.). Wik Mungkan country was not included in the Edward River mission (Pormpuraaw) until 1958, and Olkola and Bakanh people did not come into the community from adjacent pastoral properties until the 1960s and 1970s. Again, like Kowanyama, these tribal groups who live together on the present day 'Mungkan side' in Pormpuraaw have links with each other that predate the mission (Sutton 1978, Taylor 1984, von Sturmer 1978).

When old people speak of those years in Pormpuraaw and Kowanyama, they invariably have fond memories of mission time. The remoteness of these communities from the interests of mainstream Australia saved them from the suffering experienced by communities in the Weipa/Napranum and northern Peninsula regions. The Weipa and Mapoon missions had their populations forcibly relocated to Napranum and New Mapoon respectively, and their settlements were destroyed by the Queensland Government in 1963 to make way for bauxite mining operations by Comalco. These actions still have devastating consequences for the Traditional Owners of these areas and are central to issues relating to the use of sea country today. The former Weipa mission is now part of a large mining town and New Mapoon is part of the northern Peninsula group of communities. The latter communities, other than New Mapoon, form part of

what was formerly called the 'Northern Peninsula Area' by the Queensland Department of Native Affairs. This administration was based at Bamaga, which was initially populated by people who came from Saibai Island in the Torres Straits in the 1940s. Seisia also has a large Islander population and is regarded today as a dormitory of Bamaga. Umagico was used for the relocation of Aboriginal people from Port Stewart and attempts were made to move Lockhart River people there in the late 1960s. New Mapoon was established in 1963 and there is intermarriage between its population and people in Injinoo, though other New Mapoon people started moving back, of their own accord, to their original home in Mapoon in the early 1970s (MacIntyre & Greer 1995). Kaurareg people on Horn Island and Thursday Island also have close social and cultural affiliations with mainland people. These relationships pre-date the sequestration of the islands of the Torres Strait into the Queensland colony in 1876 (Sharp 1992). The post-war intermingling of Islander and Aboriginal populations from different communities in the northern Peninsula was part of a wider program of the Queensland Government, whose aim was to break down Indigenous social structures in the state and to assimilate them into the dominant European society in Australia.

4.2 Department time

Whereas the mission years were a time of isolation and containment of Aboriginal people in reserves, the years of State administration were officially designated as a time of assimilation. This policy was embodied in the 'Deed of Grant in Trust' (DOGIT) tenure that was granted to each reserve area in the late 1960s.

Ideologically, the intention of the DOGIT system was to alienate Aboriginal people from traditional affiliations to their land and to assimilate them into mainstream Australian society. The tenure was intended to help promote a landscape of small townships, based on the missions, and locally managed enterprises such as cattle operations, of the kind that might be found elsewhere in rural Queensland (Taylor 1984, Kidd 1997). Locally elected Aboriginal councils were introduced in 1968 to provide models for the acculturation of local people into the practices of mainstream civic life. They were intended to perform the functions typical of a small Shire council with two notable exceptions: they could not raise local taxes, and they had no jurisdiction over community lands outside the township area. They were also under



the direct supervision of a Department of Aboriginal and Islander Advancement (DAIA) manager who was based in each community. The DAIA had been the Department of Native Affairs until 1965, and subsequently became the Department of Family and Community Services (DFCS) in 1981. The Department, under its various titles, administered what was generally known as 'the Act'. This had its first inception in the 1897 Act with successive amendments to 1934; it then became the *Aboriginals Preservation and Protection Acts* of 1939 to 1946, and then the *Aborigines and Torres Strait Islanders Affairs Act* of 1965; ultimately it was *The Aborigines Act*, 1971 to 1984. These Acts provided the Department with instruments of total control over the daily lives of the entire Aboriginal population of the State until 1973, and from then onwards over 'assisted Aborigines', those people identified under the 1971 Act as living on State-assigned reserves, such as all of the communities in the review area (Kidd 1997).

Aboriginal Community councils were set up under the 1965 Act to allow local representation in community government on State reserves. Communities were closely monitored from Brisbane. The councils initially comprised four members, and then five from 1971 onwards, and were under the supervision of the local Department manager. The Manager was required to take minutes of each meeting, which were then sent to Director's office in Brisbane, who then advised the manager accordingly on any action that needed to be taken (Kidd 1997). At first, two councillors were elected by a community and then, from 1971 onwards, three. The other councillors were directly appointed by the Department. The councils could introduce by-laws subject to their approval by the Director in Brisbane (Taylor 1984). They also appointed a local Aboriginal police force and acted as a court to handle crime of a scale normally dealt with by a Magistrates court elsewhere in mainstream Australia.

Kidd (1997), in her history of Department time in Queensland, described an administration that was dominated by three men who were its Directors in the years between 1914 and 1986, each of whom established their own hegemony in the conduct of Aboriginal affairs in the state. This meant total control of the Aboriginal population. Missions, which were called communities following the 1965 *Aborigines and Torres Strait Islander Act* (Queensland), were places where every facet of life from birth to death was administered by the Department. Key features of Departmental hegemony were total

surveillance of Aboriginal people and of their daily lives. People who lived on reserves and were thus 'under the Act' had to have 'certificates of entitlement' to live there which, up until 1971, could be revoked at any time by the Director. The Director's agent in each community, the Department manager, also had considerable powers. Prior to 1971, 'assisted Aborigines', in other words those who lived on reserves, could be subject to renewable six months' detention for disobeying a manager's orders, or for leaving a reserve without permission. Greater freedom of movement on and off reserves was obtained in 1971, although visits by people from outside the reserve continued to be arranged on a 'permit' basis until 1982. Overall, the involvement of locally elected DOGIT councils in the 1970s and the early 1980s was in affairs of the township, and not of adjoining DOGIT lands which remained under total control of the Department.

The church missions had mostly let people use the bush whenever they wanted. Sometimes this was encouraged if mission rations were in short supply, and often in the dry season families would camp out in their traditional country for weeks on end. The Department actively opposed any Aboriginal interest in land ownership or in land use initiatives of any kind. For instance, attempts by the Aboriginal Land Fund Commission (ALFC), an Australian Government body, to buy a property at Archer River Bend for John Koowarta, the Traditional Owner of the land and a resident of Aurukun, were blocked by the Queensland Government, which refused to transfer the lease to him. This led to Koowarta suing the Queensland Government under the *Racial Discrimination Act 1975* (Clth). Koowarta eventually won his appeal in 1982 but not before the State Government, in a last measure to deny him the land, had gazetted it as a National Park (Kidd 1997). A number of other unsuccessful attempts to purchase land for Aboriginal people in Queensland were also made by the ALFC.

Australian Government pressure on the Queensland Government to recognise Aboriginal land rights and to allow Aboriginal ownership of land increased after the introduction of the *Aboriginal Land Rights Act 1976* (Clth) in the Northern Territory. This Act provided Aboriginal people in the Territory with rights of freehold



ownership of their reserve lands. The *Aboriginal Councils and Associations Act 1976* (Clth) was introduced to provide a basis for the incorporation of Aboriginal bodies on state reserves throughout Australia. The *Queensland Local Government (Aboriginal Lands) Act 1978* provided a means by which the Department could circumvent the 1976 Australian Government Acts by creating local government Shires and removing DOGIT or reserve status from Aurukun and Mornington Island reserves (Kidd 1997). These communities had objected to plans for the takeover of their control from the Uniting Church by the DAIA. The latter was concerned that the church was encouraging the establishment of outstations or homelands in both communities. The Department and the Queensland Government were ideologically opposed to such developments (see Kidd 1997). About 150 people had moved out to outstations in Aurukun in 1975–76 (Chase and Sutton 1981). The granting of Shire status removed any powers that either community had over land use beyond the area of the township. In an attempt to overcome political criticism, the Queensland Government introduced the *Land (Aboriginal and Islander Land Grants) Amendment Act 1982*. This Act granted trusteeship and administration of DOGIT lands to local community councils. A further amendment was introduced in the 1984 *Community Services (Aborigines) Act* to transfer administration of community townships and of surrounding DOGIT lands entirely to locally elected Aboriginal councils.

The 1984 Act provided the DOGIT councils with full local government powers except for the requirement of ministerial approval for their budgets. The ultimate right to allocate mining, timber extraction and pastoral leases within DOGIT areas, as with all Crown land, was retained by the Queensland Government. The reserve areas were subsequently transferred to the same local Aboriginal councils as DOGIT land *in perpetuity*, under a 1987 Order in Council amendment to the 1984 Act. The grant gave them a basic right to supervise their own occupation of the DOGIT area subject to the leasing exclusions that were held by the State Government.

4.3 Community time

All of the communities in western Cape York Peninsula, with the exception of Aurukun and Weipa, are DOGIT lands. Mapoon's DOGIT status is exceptional in that it does not have an elected Community Council. The Mapoon Aboriginal Corporation is the only community political and administrative structure and this is supported financially by ATSIC.

The trustees of each DOGIT are seven Community Councillors who are elected every three years. The Council has a Chairperson who is elected from among the seven members of Council, and an Executive Officer who is also appointed by the Council.

The *Community Services (Aborigines) Act 1984–1991* (Qld) defines the roles and responsibilities of the Community Council and its powers to create by-laws. The Queensland Department of Family and Community Services (DFCS) audits Council finances each year. Each Council is also a member of the Queensland Aboriginal Coordinating Council (ACC). The ACC comprises representatives of all of the DOGIT communities in the state and is a forum within which the Queensland Government develops policy for these communities. DOGIT communities do not have any local tax or revenue raising powers. Recurrent funding is provided by annual grants from the Australian Government that are disbursed through Aboriginal and Torres Straits Islander Commission (ATSIC) and the Queensland DFCS. Education, health, police and power infrastructure are financed by the corresponding Queensland Government agencies, and housing and road construction and maintenance are financed by special grants on an 'as needs' basis. DOGIT councils do not have any legal obligation to the requirements of the *Integrated Planning Act 1997* (Qld) and hence do not have any formal planning function to deal with infrastructure, environment or land use planning issues. Despite this exclusion from mainstream planning processes, communities have introduced their own mechanisms for dealing with land and sea management issues. These initiatives will be described later in this review.

The early days of Community Time (1985–90) were still marked by attempts by the Queensland Government to influence Aboriginal notions of land ownership. The *Aborigines and Torres Strait Islander (Landholding) Act 1985* (Qld) allowed either the State Government or the DOGIT Councils to issue perpetual leases for areas of Trust land



to Aboriginal people. Figure 23 is a copy of a Queensland Government advertisement promoting the legislation and the new Aboriginal Councils and explaining the role that was envisaged for them.

Figure 24 is a copy of a Department brochure that encourages Aboriginal people to lease land under the 1985 Act.

The people or corporate bodies who qualified under this Act were Aboriginal people who were resident in Trust

areas. Aboriginal people, even those with traditional title to their land, who were not resident in a DOGIT area did not qualify. Councils were empowered to provide perpetual leases to one-hectare areas of land to any prospective applicant. Leases for larger areas of land were subject to the approval of the Minister.



Hon. Bob Katter, Jr., MLA
Minister for Northern Development and Community Services, Qld.

Total security for Queensland's aborigines and islanders

The great opportunity for Aborigines and Islanders to play an even more important part in Northern Development has arrived with Deeds of Grant in Trust.

The Aboriginal and Island people have at long last gained the security they need to start developing local industries and building up the business potential of vast areas of North Queensland.

The Deeds give secure title to what was reserve lands and the management is now wholly in the hands of the elected councils.

There is no way that development can take place without security for all time is what has been achieved with the Deeds of Grant in Trust.

What it means to Queensland Aborigines and Islanders:

- security
- self-management
- ownership of your own land and house.
- business opportunities
- development opportunities
- contribution
- training

For the first time in Australia, Aborigines and Islanders will have complete security of their land and with it, the chance to secure their own homes and play a big part in the development of the North.



Sunshine Coast Locations

MAROOCHYDORE


29 Aerodrome Road
(071) 43 1733
Telex 145129

NOOSA HEADS

Hastings Street
(071) 47 5880

CALOUNDRA

Cnr. Bulcock & Otranto Sts.
(071) 91 6144



QUEENSLAND
A STRONGER STATE
A BETTER LIFE

Figure 23: A Queensland Government Advertisement of DOGIT reform

Source: The Queenslander, September 1986



★ **OWN YOUR HOUSE**

GET A LEASE ★

★ **START A BUSINESS**



Figure 24: Departmental Brochures that promotes the 1985 Aboriginal Landholding Act and starting a business

Leased land was to be excised from the DOGIT and from community control and, in principle, the Act also allowed leaseholders to transfer or mortgage their interest, thus creating the possibility of the Government allowing the disposal of DOGIT land to non-qualified or even non-Indigenous persons (Pearson 1989).

Despite the notional autonomy that the 1984 and 1985 Acts and the 1987 Amendment gave to Community Councils, the development of rural Aboriginal towns continued to be a social engineering goal of the State. The assimilationist aims of the State Government had not entirely gone with these new creations, as two clear goals foreseen for them was *ownership of your own land and house* and the opportunity to *start a business* (Figure 24). More than half of the households in the Kowanyama and Pormpuraaw townships subscribed to the Government's vision and offer of home ownership between 1988 and 1990. Some people were also encouraged by the Department to apply for pastoral leases on DOGIT land as well. The transfer of title to community households and families led to the removal of their maintenance from the responsibility of the Council and to the dilapidation

of community housing stock. Severe housing shortages have only been overcome in recent years as Councils have reclaimed the leases through legal process. There were about seven or eight applications for pastoral leases in Pormpuraaw and in Kowanyama. Two of them were assigned in Pormpuraaw and one in Kowanyama. All of these leases are in saltwater country and only one of them is regarded unequivocally as being in the traditional country of the lessee (Monaghan 2003b). These leases are still active today and may, in principle, be excised from the DOGIT.

Sharp (1992) also describes non-traditional interests in DOGIT land at Injinoo in the later 1980s in response to the 1985 Landholding Act, and the related concerns of the Traditional Owners of these areas.

A change of government in Queensland in 1990 led to the introduction of the *Aboriginal Land Act (ALA) 1991* (Qld). This Act recognised the existence of 'traditional' and of 'historical' interests in land as criteria for Aboriginal people to obtain freehold in trust over 'transferable' land. Transferable land included DOGIT



4.4 CYPLUS – regional-scale natural resource assessment on Cape York Peninsula

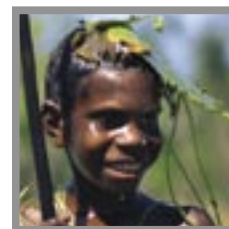
The Cape York Peninsula Land Use Study (CYPLUS) was set up by the Queensland and Australian governments for the assessment of the natural resources and the biological conservation values of the Peninsula (CYPLUS 1993, 1996). The aim of the study was to prepare plans for future land uses and for infrastructural development of the whole region in order to preserve perceived natural wilderness values and to enhance economic opportunities for its residents in light of these values (CYPLUS 1996).

The first stage of CYPLUS proposed essentially that all future development of the region be undertaken within a biological framework that recognised *biodiversity* and *ecologically sustainable development* as the governing criteria in regional land assessment (CYPLUS 1993). These criteria are not always compatible with notions of land ownership or of social justice as perceived by Aboriginal communities (Cordell 1995). The study did not directly include the considerable cultural diversity of the landscapes in the region, nor the significance of the landscape to traditional landowning groups, as objective criteria within the assessment. The words *culture* and *tradition* were frequently cited in the first CYPLUS report (1993) but were only ever accompanied by vague definitions of their meaning. Poor communication of the plan and its concepts led to some local suspicion about the motives of CYPLUS. Gulf communities are aware of the loss of control over land and of access to natural resources that has occurred on the east coast of the Peninsula where the concept of *biodiversity* had formed a major part of the rationale for the imposition of 'World Heritage Area' jurisdictions by the Great Barrier Reef Marine Park Authority and the Wet Tropics Management Authority over areas that are also subject to local Indigenous notions of tenure and use (Monaghan 2003c).

An acceptance of land as a social justice as well as an environmental issue was more apparent in the second stage of the CYPLUS project (1996). By then, the Royal

Commission into Black Deaths in Custody (Johnston 1991) and the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families (Wilson 1997) had clearly identified the relationship that exists between land and sea, personal well-being and health, education, and law and order issues in Aboriginal society. The Kowanyama community still refused to participate in any form of consultation with CYPLUS, and in a statement declared that the community already managed their own lands and natural resources adequately by the principle of *self-governance* and under the supervision of traditional landowners (Sinnamon 1997). They were not prepared to negotiate their land tenure or land use rights under the CYPLUS terms of reference, as they had not been consulted in their development. The Pormpuraaw Community Council listened politely but it was apparent after a visit there by the CYPLUS consultation team that they still had not communicated their aims clearly. In the days after the visit the community was engaged in a number of public and private meetings where priorities for homeland construction were discussed between councillors, traditional landowners and people in the township at large. There was a sense of urgency to these proceedings, almost as if the construction of bunkers or air-raid shelters was being negotiated (Monaghan 2003b). Many people regarded CYPLUS as a veiled 'land grab'.

The most striking feature of the CYPLUS plans was their identification of high wilderness values for much of the western and northern Peninsula, when in fact these areas have been populated by their Traditional Owners for millennia. Indeed, as already stated in this review, the region may have been one of the most densely settled in Aboriginal Australia prior to the arrival of the Europeans. As Taylor (2003) has remarked, contrary to being a wilderness, Cape York Peninsula is in fact a *domesticated environment* and is a region that continues to be subject to highly sophisticated environmental natural resource management practices over its whole extent. Also striking about the CYPLUS plans is the absence of any Aboriginal appraisals from people in the western and northern Peninsula of the biological and nature conservation values of their country.



5. USING SEA COUNTRY IN WESTERN AND NORTHERN CAPE YORK PENINSULA

This section of the review summarises current uses of the marine environment by Aboriginal people; uses by other non-Indigenous groups and enterprises, and those aspects of marine resource use which are of most concern to Aboriginal people in western and northern Cape York Peninsula.

5.1 Current Aboriginal use of the marine environment

There is a clear contrast between the historical experiences of Aboriginal people in the Gulf of Carpentaria and of those in the Weipa/Napranum and northern Peninsula where a significant dislocation of people from their sea and inland country has occurred. Despite these perturbations the cultural and economic significance of sea country has survived. Suchet (1995) says, with reference to Napranum,

Despite those daunting changes and challenges, the traditional Aboriginal owners of the region have survived with a complete sense of their Aboriginal identity.

And an informant declared, with reference to their plans for a homeland,

I'm going to try and bring Aboriginal life to earth, make it real. For the dream to end, to live permanently at Bowchat (Kaynayth 12/2/94, in Suchet 1995).

Longstanding practices are a large part of present day sea management.

The calling up of species is still an important feature of Peninsula hunting and fishing. It is often said that only people who know how to 'talk to their country' – whether on land (murrup) or on sea (malu) – are able to hunt or fish successfully in a given locality (Southon & Kaurareg Tribal Elders 1995).

The sea, and fishing and marine-hunting are a basis of personal and geographical identity for Peninsula people through access to sea country and gender and age roles in either fishing or hunting. The species that are sought are determined by the location of named places (reefs, islands) in the seascape. These sea places embody detailed custodianship, resource use, and environmental

and mythological values for Aboriginal people. Hand-lining or spearing of fish from rocks and beaches for subsistence; and hunting of turtle from aluminium dinghies powered by outboard motors, are typical fishing and hunting activities (Southon & Kaurareg Tribal Elders 1995). Important fishing places are also reported at Injinoo at locations including Escape River, Jackey Jackey estuary, the beach, the mouth of the Jardine River, the 'outside mouth' of Cowal Creek and those reefs which are adjacent to islands. Places are also acknowledged by the particular species that may be caught there. Hunting or fishing seasons are determined by local chronologies such as turtle hunting at solwol or turtle pas time. Also, some activities such as the catching of Torres Strait pigeons from offshore islands are only undertaken by men. Stories and creation myths are major features of the land- and seascapes of the northern Peninsula area and those people who are strangers to the area need to be accompanied by Traditional Owners who can call out to the country, whether on land or at sea, as they enter it (MacIntyre & Greer 1995).

Traditional knowledge is also a feature of current sea use. The availability of marine resources at Mapoon is monitored through environmental indicators such as the flowering of native Apple signalling the Bonefish 'run' in the later dry season, or wattle blooming that indicates that turtles are now fat and ready to be caught. Again, like other areas of the north, there are gender-specific roles in the capture of dugong or turtle. Old people's knowledge of the customary use of the sea at Mapoon is highly esteemed and carefully guarded from outsiders as a community resource. Young people are expected to go through certain 'rites of passage' before they are allowed to hunt and fish independently (Cooke & Guivarra 1995).

Mobility and reciprocity are features of marine resource use (Sharp 1992). The sea around Mapoon is also used by Aboriginal people from Weipa, Napranum and other communities who are either relatives or friends of residents. Some visitors to Mapoon arrive from New Mapoon after a four-hour trip by dinghy from Seisia. Visitors may bring Islander friends from Bamaga, as well as gifts of dugong or turtle or turtle eggs that have been acquired along the way. Men from Bamaga and Injinoo



also go dugong hunting with men from Lockhart River (Cooke & Guivarra 1995, MacIntyre & Greer 1995).

Present day marine resource management in the southern Gulf Lowlands involves elements of remote sensing and remote control of the sea from places on the land where the various elements of the sea environment and of sea life, and the ritual knowledge and belief systems that are associated with them, are located (Sharp 1937, Von Sturmer 1978, Taylor 1984, Monaghan 2001, Monaghan & Taylor 2003).

Ritual control is most evident following a death in the community. This is a time when no person may enter the country of a deceased person because it is assumed that the spirit of the deceased is residing there and *finding their way home*. Traditionally, this ban may last for up to a year (Sharp 1937) but nowadays the period between death and burial and the lifting of a mortuary 'ban' may only be a few weeks. The community fishing spots at Pormpuraaw were closed for a number of days at the request of the family of a bereaved person last year and there were complaints of hunger from people in the township at that time as a result of this action. Other aspects of ritual control that embody natural resource management practice include the maintenance of 'increase' sites for enhancing the size of populations of different species of fish or molluscs; and the management of poison or avoidance sites such as the 'Cough Story' at Kowanyama. The latter story place is wetland in saltwater country where vehicle access is not permitted and where the movement of cattle is restricted so that the undue raising of dust or water pollution and their consequences for the health of the people in the Kowanyama township who share that 'story' are prevented. Many increase or poison places and the ritual and natural resource management practice associated with them are in fact related directly to control of the marine environment of the Gulf of Carpentaria and related phenomena such as winds and tides, and of sea life such as fish or crocodile or turtle (Monaghan 2003d).

Apart from the considerable cultural and social value of the marine resource to Aboriginal people, its importance in most people's diet is inestimable. Fish is the staple food of people throughout coastal areas of the Peninsula. Early ethnographers (Sharp 1937, Thomson 1939) described a seasonal rhythm on the west coast of the Peninsula whereby people availed themselves of wetland flora and fauna as they became available. This same rhythm permeates present day community life. For example, in Kowanyama in the later dry and early wet seasons 'Crayfish time' is followed by 'Shark time' which is then followed by 'Geese egg time'. These provide major food staples to the community as they become available, and the technology used to collect them – hand line, spear or net or fish trap – has changed little since the first contact of Kowanyama people with Europeans in the earliest years of the twentieth century. Fishing is either a solitary or a family activity that takes place from the river front, lagoon side or occasionally from the beach. When people are fishing on the coast they invariably position themselves on the inland side of an estuary or tidal salt arm. Everything that is caught is eaten. Other than the seasonal 'feasts' that occur with marine and estuarine wildlife as they become available, there are no demonstrable dietary preferences for any particular species and waste of any catch is absolutely abhorrent and antithetical to the worldview of Kowanyama people (Monaghan 2003d).

One study has estimated that about 40% of household food income in Kowanyama is obtained from subsistence activities such as fishing, hunting or egg collecting, and that the total annual value of these activities to the community is about \$547 000 (Asafu-Adjaye 1995). There are no substantive data on the subsistence economies of Indigenous communities in the Peninsula. This is a major deficiency in a regional planning exercise where the overwhelming majority of the population is Indigenous and where there are also coincident economic interests in sea country by non-Indigenous recreational and commercial fishermen. Certainly, there is a widespread concern by Indigenous people about what they perceive is a serious depletion of their fish stocks as a result of the recreational and commercial fishery (Cooke & Guivarra 1995, Suchet 1995, Smyth 1995, Monaghan 2003d).

The Edward River crocodile farm at Pormpuraaw is one of the successful commercial ventures by Aboriginal people in saltwater country in Australia, and it has been



established there since 1970. Its operations are based around egg and hatchling production in lagoons on the coastal ridges at Pompokuraaw. There is some interest by homeland groups at Kowanyama in crayfish farming, crocodile egg collection or in hosting recreational fishermen. They are modest ventures which entail low levels of investment and ongoing maintenance.

So, in summary so far:

- the sea is the major source of food for Indigenous people and its significance to the Peninsula economy in dollar values remains to be determined
- there is a continuity in traditional marine environment management strategies and in marine resource procurement technologies to the present day
- it appears that present day sea relationships are not entirely determined by community of residence. Current mobility and reciprocity practices between families and communities maintain longstanding social and cultural relationships, despite the dislocations that have occurred to them historically as a result of tenure transfers and the removal of people from their homeland country.

5.2 Aboriginal concerns about non-Indigenous use of sea country

The main non-Indigenous economic interests in sea country in the western and northern Peninsula are in commercial fishing, recreational fishing and tourism, mining and cattle. Smyth (1995) has summarised issues of concern expressed by Aboriginal peoples about commercial fishing as follows:

- decline in subsistence marine resource
- waste, for example discarded by-catch and frames and heads from filleting
- lack of economic benefit flowing back to Aboriginal people from activity in their country
- adverse social impacts, for example bringing alcohol to communities and outstations
- threats to cultural sites
- destruction and theft of Aboriginal fishing equipment.

Tilbury (1995) highlighted Aboriginal concerns that the economic benefits accrued by the non-Indigenous fishery are taken away from the Peninsula region, although Martin (1997), says that the fishing industries only formed 2.3% of overall economic production in Cape York Peninsula.

In meetings that were held in July 2003 in Kowanyama to discuss the proposed Northern Marine Regional Plan and the issues of sea use that most concerned the community, over-fishing by commercial operators, and unsupervised or illegal fishing were those that were most discussed (Monaghan 2003d).

Kowanyama has a number of camps for recreational fishermen who visit the community. Fishing permits are limited and demand for them, for which payment of a fee is required, is always high and never satisfied. The Traditional Owners of each camp site are consulted before the start of the fishing season about how many people may be allowed to fish there that year. A proportion of the fees that are received are paid into their homeland account and another proportion is allocated to the funding of aerial and boat surveillance of commercial fisheries in the Gulf of Carpentaria by Community Rangers. Sometimes the Owners instruct the Kowanyama Land and Natural Resource Management Office (KLNRM) that a camp area be closed for that year either for ritual reasons or for conservation reasons if it is felt that fish stocks are insufficient to satisfy both visitors' recreational and local peoples' subsistence needs. Many people do not like recreational fishermen arriving with freezers or with a boat attached to their vehicles and it is likely that such fixtures will be banned in the future. Meanwhile, local people always encourage visiting fishermen to give any catch that is surplus to their immediate needs to families in the community.



PART B: USING SEA COUNTRY

We don't want any tourists here they take our fish. ... we don't like them they make too much mess (Ernest Teddy, 3 July 2003).

We frightened of them strangers in our country ... yes that's right (Ernest Teddy and Evelyn Josiah, 3 July 2003).

People should not come in, in boats, to take fish without asking us (Kenny Jimmy, 4 July 2003).

We don't know who comes in or when over the wet season (Edmund Eric, 30 June 2003).

Tourists should stay in their area and not move around in boat (Ernest Teddy, 3 July 2003).

The use of firearms and pig shooting, drinking alcohol, the spolioation of fish catches and the dumping of rubbish by 'strangers' are concerns that are related to illegal fishing that were raised in these meetings. There was a general feeling of fear expressed at the Kowanyama meetings of strangers in their country and the damage that they can cause to sea life and to special

totemic places. Many people also expressed fears for their personal safety when they are on their homeland, particularly when cached fishing nets or the remains of an illegal camp have been found. For instance, a Traditional Owner at Pormpuraaw has had equipment stolen from his homeland site on a number of occasions over the years, he believes by fishermen who set up illegal camps from time to time.

Figures 26 and 27 show the amounts and the spatial distribution of the total commercial fish catch and of the barramundi commercial fishery catch in 2002 (Queensland Department of Primary Industries, <http://www.dpi.qld.gov.au>). The most heavily fished areas are the Mitchell River mouth and the Coleman River mouth at Kowanyama and Pormpuraaw, the coast adjacent to Aurukun, and sea country between Weipa and Napranum, and Mapoon (Figure 25). The barramundi fishery also focuses on the same areas but is also more widespread through the coastal areas of the Gulf of Carpentaria and the Arafura Sea (Figure 26).

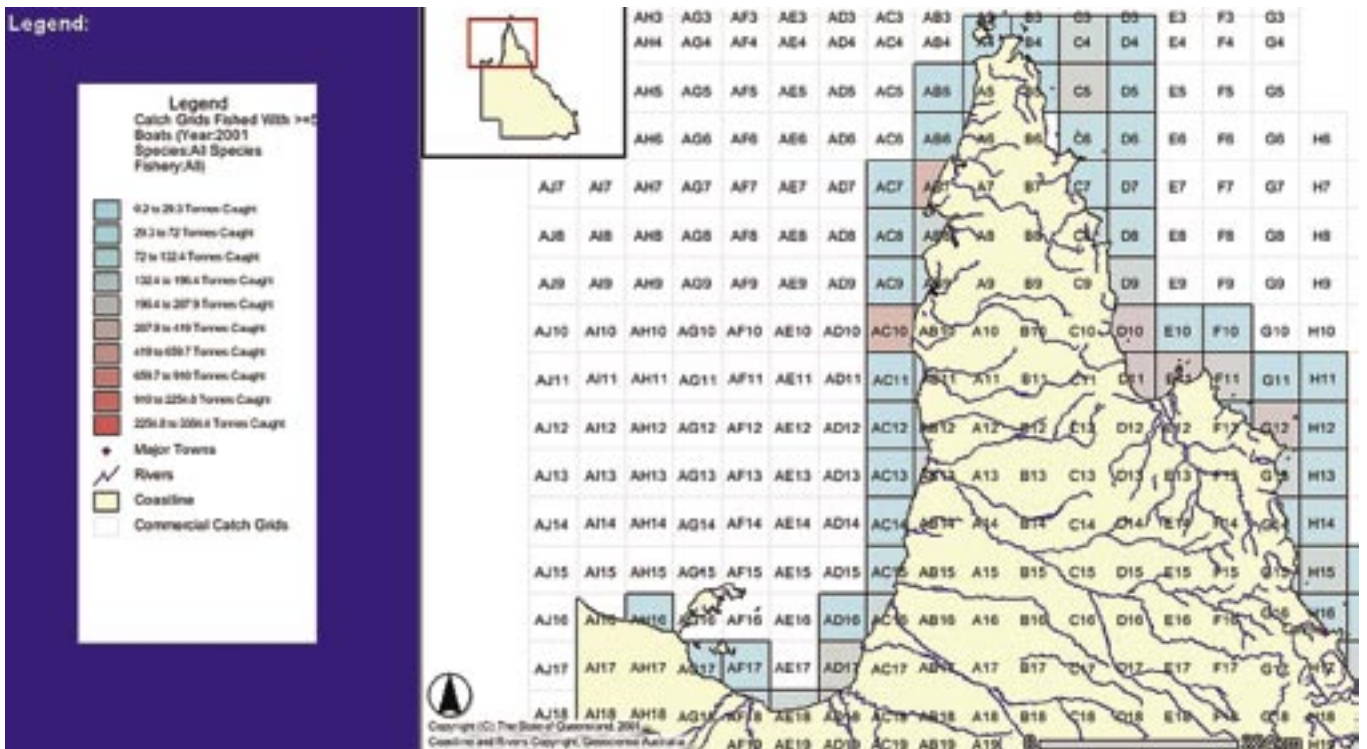


Figure 26: Total fish catch in 2001

Source: Queensland DPI with annotation by J Monaghan



The impact of commercial fishing has been reported at Port Musgrave in the Mapoon community where Traditional Owners live in houses on the beachfront. Commercial fishermen have set out nets from the beachfront at times, which local residents have found affronting, and the rotting remains of 'bycatch' fish and crabs that have been left on the beach by fishermen has also caused offence (Cooke & Guivarra 1995). Mapoon also experiences a heavy and unsupervised use of its sea country by recreational fishermen, many of whom are non-Indigenous Weipa residents. Seasonal agricultural workers, who migrate north as work opportunities diminish, also set up illegal bush camps on the DOGIT in the wet season. The community does not have enough vehicles or personnel to monitor these activities (Cooke & Guivarra 1995). Napranum is also an important element of the 'Weipa lifestyle' which again, like Mapoon, includes widespread and unsupervised access to the marine environment and the use of longstanding camp sites on DOGIT land, without the authorisation of Traditional Owners. Indigenous people in both communities feel a strong sense of resource competition with non-Indigenous people and a need for greater control over recreational and community fishing (Cooke & Guivarra 1995, Suchet 1995).

For instance,

We're just waiting patiently to get our sea rights, then we can stop them from getting too much turtle and fish (Kaynayth, fieldwork interview, 12/2/94, in Suchet 1995).

The unsupervised use of the marine environment and of community lands in the Weipa and Napranum region, and in Mapoon, is partly due to the fragmentation of traditional country by mining leases. This, along with a lack of vehicles and staff to perform the necessary Ranger duties, makes it difficult for community people to monitor their community lands and sea country. A related concern is the degradation of marine and terrestrial environments by the Comalco bauxite mining operations.

... since mining started no echidnas come around anymore ... no possums either in trees (Kaynayth 14/7/94, in Suchet 1995).

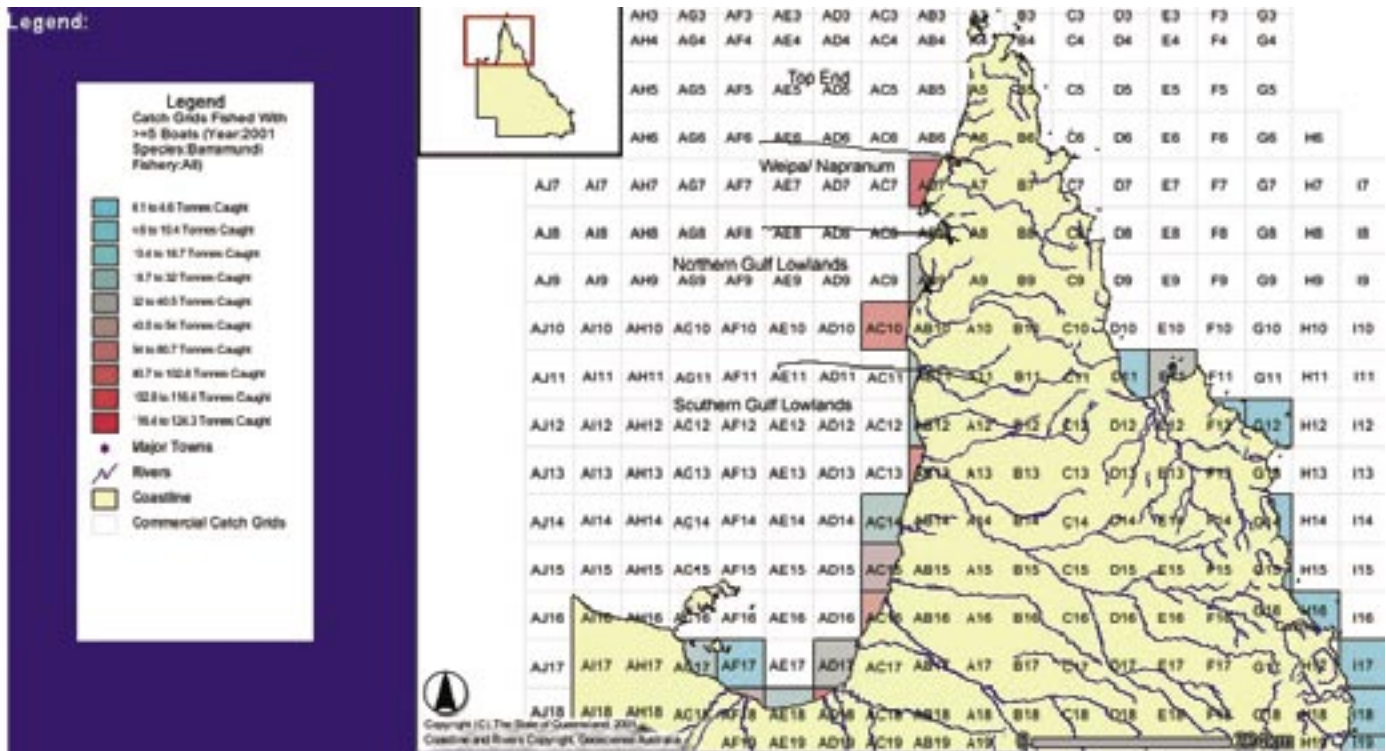


Figure 27: Total barramundi catch in 2001

Source: Queensland DPI with bioregions annotation by J Monaghan



One Traditional Owner talks about the changes wrought by the presence of Comalco:

... Lorim Point used to be a beautiful beach. The old people used to camp there ... the area near Nannum is more or less a sacred swamp. We won't be able to have control over it and what will happen if they sell the blocks in Nannum [from the process of 'normalisation' of Weipa north]. They took away our hunting grounds. People used to walk to that point for oysters and now they can't. They changed the name – Rocky Point was called Kumrunja in language. Along this way [to the southeast of Napranum] we only get mud shells and wallabies. Along the other way, women used to walk towards Kumrunja and collect arrowroot and oysters, and wild berries and all kinds of other things. Now we can't show the kids not because the kids don't want to, but because it's not there. They've taken that from us (Howitt: Fieldwork interview, Napranum July 1992, in Suchet 1995).

It is also felt that dredging of the Embley River and of Albatross Bay has led to the disappearance of dugong and turtle from those waters. Fear of the consequences of gold mining operations on Horn Island between 1988 and 1990 for Kaurareg fisheries is reported. Kaurareg people have also expressed concerns about the effects of sediments from mining operations in the Fly River catchment of Papua New Guinea. Wolanski (1992 cited in Southon & Kaurareg Tribal Elders 1995) reported that mining sediments were adequately dispersed in the waters of the Torres Straits and did not pose any threat to regional fisheries. Kaurareg people have also been concerned about unpiloted ship movement and the possibility of a major oil spill in the Torres Straits as there have been incidents of ships running aground –

... a major oil spill in the Torres Strait would have a serious impact on the lifestyle of the Peninsula (Southon & Kaurareg Tribal Elders 1995).

Kaurareg people identified the need for Rangers to be located on each of the islands in their sea country, and also a need for training for them in pilotage and clearing oil spills. This concern about a lack of local community and State Government capacity to monitor the marine environment is expressed in all of the available literature

for the western Peninsula.

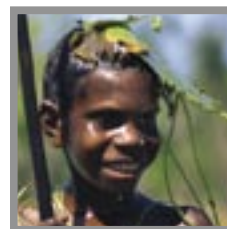
Trampling of coastal wetlands by feral pigs is an identified marine resource management problem in Kowanyama (Monaghan 2003d) and in sea country elsewhere in Cape York Peninsula (Tilbury 1995).

In particular, the commercial prawn fishery and the barramundi fishery (both commercial and non-commercial) are susceptible to the impacts of habitat loss in estuarine spawning/nursery areas. While habitat loss is currently minimal, land use planning should recognise the potential damage that can be caused by inappropriate or uncontrolled activities (Tilbury 1995).

Pigs destroy the substrate of wetlands, and in other places overgrazing by cattle also removes protective vegetation from the banks of rivers and wetlands. As a result, high sediment loads are mobilised into coastal waters. This contributes to a widely held view that some wetlands have become shallower in living memory. For instance, it is felt that the 'Moon story' wetland at Kowanyumal may be on the point of becoming ephemeral. Historical (Sharp 1937) and present day photography of a similar lagoon at Puy'al in Chillagoe Pocket, about seven kilometres north of Kowanyumal on the Pormpuraaw DOGIT, show the almost complete removal of fringing riparian vegetation and infilling of that lagoon since 1933. Puy'al, like Kowanyumal lagoon, is a place of the highest cultural and historical significance to Yir Yoront people. High sediment loads, surface water run-off and impairment of water quality, and the spread of aquatic weeds from upstream mining and cattle grazing operations led to the initiation of the Mitchell River Watershed Group, an alliance of watershed landowners and natural resource managers, by Kowanyama in 1990 (Sinnamon 1997). Kowanyama's concern was about the effect of such land use activities on sea country in the Gulf of Carpentaria.

In summary, the main concerns about non-Indigenous use of the marine resource in western and Cape York Peninsula are:

- a perceived depletion of fish stocks by commercial and recreational fishermen
- abuse and degradation of the cultural and economic resources of sea country by non-Indigenous fishermen, shipping, and mining operations



- inadequate funding of Community and State Government sea management agencies for monitoring sea use in the Gulf of Carpentaria and the Arafura Sea
- sea country fish and fauna habitat loss due to runoff from mining and cattle operations, and from predation by feral pigs.

Some research needs for Cape York Peninsula fisheries that were identified by Tilbury (1995) include:

- *investigating interactions between commercial, recreational and traditional fisheries. For example, the commonly expressed opinion that trawling adversely affects non-commercial fisheries may need to be investigated within the Cape York region*
- *monitoring of habitat changes. There is presently little routine monitoring of changes in important fisheries habitat (e.g. seagrass, mangroves). More intensive monitoring is likely to be required as development of the region increases. Such monitoring should include a catchment-based focus to allow management of habitats in an holistic manner (Tilbury 1995).*

These questions still need to be answered before any informed management of the use of sea country in the west and north of Cape York Peninsula can be planned for.



6. MANAGING SEA COUNTRY IN WESTERN AND NORTHERN CAPE YORK PENINSULA

A suite of differing historical and geographical circumstances, and differing experiences of government policy and of forms of church or State intervention in determining the directions of community life, have created a set of distinct communities in the west and north of Cape York Peninsula and a set of different orientations to sea country in terms of marine resource use. Nonetheless, there are common sea management concerns across all of the communities. There are local concerns which are directly related to the desire by communities to have more control of the problems such as recreational and commercial fishing which have an immediate effect on their lives and subsistence economies; and there are regional-scale issues, which are beyond the capacity of single communities to deal with, including mining and water quality, feral animals, weeds and shipping.

6.1 Community-scale sea management

There are no formal planning requirements expected of Aboriginal community councils in Queensland. Nevertheless, there is a long-established community organisation that deals with natural resource management in the Kowanyama Land and Natural Resource Management Office (KLNRM). The Land and Sea Management Centres at Aurukun and the Mapoon Aboriginal Corporation and the Injinoo Apudhama Association have been established for some time. The latter organisation has Traditional Owners from the far northern communities in its membership. Pormpuraaw, Napranum and the Kaurareg people have acquired land and sea management offices over the last three years as part of the Natural Heritage Trust (NHT) program for Cape York Peninsula. Each office is usually responsible for training Rangers, maintaining tourist camp facilities, erosion control measures, fire planning, feral animal control, flora and fauna protection, fisheries surveillance, and cultural site protection. The capacity of the Mapoon

office to fulfil these roles is impaired because its trustees are in Mapoon and New Mapoon, and this reduces its capacity to plan (Cooke & Guivarra 1995). The office at Napranum has challenges in community land and sea management that are related to the fragmentation of traditional country by mining leases and widespread illegal camping and fishing activities on community lands. All of the community land and sea offices in the Peninsula require further support to fulfil the roles that are asked of them; and, from personal experience in the role, management of office operations involves a continual setting and renegotiation of priorities as new demands arise and pass. The role of community land and sea offices in relation to the DOGIT councils, and to the Traditional Owners, is still evolving in many communities, depending on agreements that have been reached relating to tenure negotiations and the establishment of governance structures to run these institutions. These processes will have a bearing on the future management of sea country in western and northern Cape York Peninsula. KLNRM provides an example of the way in which these institutions work together: KLNRM has a long history and in its original form provided the impetus for the development of a whole of Cape York subregional strategy by the Cape York Land Council and Balkanu Cape York Development Corporation. KLNRM was, and is, substantially independent.

Issues to do with the management of the marine environment and the coastal zone of the Gulf of Carpentaria were central to the foundation of KLNRM in the later 1980s. It was set up by the Community Council to coordinate community land management in response to State Government interest in assigning pastoral and mining leases over community lands and commercial fishing pressure on community fisheries in the Mitchell River Delta. Kowanyama hosted the Northern Fisheries Resource Conference in 1988. Mining exploration lease applications to prospect for mineral sands on the coast, and for gold in riparian areas of the Alice River and the Mitchell River, led to KLNRM being a leader in the formation of the Mitchell River Watershed Group in 1990 (Sinnamon 1997). Kowanyama purchased commercial fishing licenses for the Mitchell River Delta in the mid-1980s and then surrendered them, and negotiated the closure of the South Mitchell River fishery to commercial fishing with the Queensland Government. By 1991 Kowanyama had also established a



coastal fisheries surveillance program, the first Aboriginal community Ranger service in Australia, and developed community regulations for supervising recreational fishing and camping by tourists on DOGIT land (Sinnamon 1997).

The Office (KLRMO) receives direction from the Community Council and a Counsel of Elders, and is administered by a manager (Sinnamon 1997). The Counsel of Elders is an institution with no formally recognised officers. Everybody in Kowanyama acts as an Elder at some time or other. The actual membership of the Counsel may change depending on the nature of the business being conducted. Different people from each of the tribal groups in the community may attend meetings to discuss office policy, Native Title, or cattle company or homeland business. There is a corps of senior citizens, who might also be considered Elders in the conventional sense because of the respect that is held for them by the rest of community. They ensure that the order of business is maintained at meetings and advise the manager on day-to-day matters. Traditional land owners (Counsel of Elders) expect to be consulted on all natural resource management issues as they arise, and agreement and policy-making on such issues is always by total consensus (Norris 2002). There is no majority rule in Kowanyama decision-making, consequently KLNRM meetings often take a long time and many meetings may be held before a complete consensus on an issue is reached. KLNRM and the Counsel of Elders reflect the demography of the community in that many members have no traditional affiliation with DOGIT community lands and their country may be up to 250 kilometres away, beyond the DOGIT boundary. Nevertheless, they have an equal role in developing community natural resource management policy. The Kowanyama Native Title claim also includes all of the traditional country of Kowanyama's residents who live in southern Cape York Peninsula and the upper Gulf country beyond the DOGIT boundary, and is coordinated from KLNRM on behalf of the Cape York Land Council, the Native Title Representative Body for the Peninsula.

When committees are set up to review natural resource management issues in KLNRM, their representation is usually divided between the main 'tribes' of Kokoberrin, Kokoberra, Yir Yoront (Kokomunjen), and Kunjen and Olkola language speakers. Language affiliation does not necessarily reflect territorial interest but when country is referred to in terms of its hunting or fishing properties

it is usually done so by the name of the language that is spoken there. The rights to hunt and fish are usually regarded as a tribal right. Everybody in Kowanyama is related to everybody else in some way and hence the land and sea of the community is a common resource for all community residents, including long-term non-Indigenous residents such as Council staff and police, teachers and nurses, to use responsibly. As a matter of courtesy, permission is always sought of a Traditional Owner if a hunting or fishing trip is planned in their country. This permission is invariably granted unless some past transgression has occurred such as camp debris or litter not being cleared up, wastefulness such as the dumping or spoliation of a fishing catch, or failure to share any past successes in fishing or hunting (Monaghan 2003d).

Within the public community space of natural resource use are groups of Traditional Owners who occupy homelands in their traditional country and amongst whom notions of private space may prevail in the sense of ownership or the right to *talk for that country*. As mentioned earlier in this review, clan or consanguineous affiliations between their members constitute homeland groups and their identity is instantiated in a single leader. There are about four or five such leaders in Kowanyama and in Pompokuraaw at any time who speak for their homeland and on behalf of those homeland groups who are related by kinship or clan affiliation. It is likely that trusteeship of DOGIT lands will be transferred from the Community Council to the Traditional Owners and that the latter homeland groups will each incorporate under Queensland law as prescribed bodies corporate. KLNRM facilitates the plans and interests of these corporate groups, which already exist in a 'de facto' sense, and accommodates them within wider Kowanyama community and Cape York Peninsula interests. KLNRM is the fulcrum of these relationships and the point of contact between mainstream Australia and the traditional landowners. The latter enjoy many longstanding and productive relationships with government, national park or fisheries management agencies; and with regional consultative organisations such as the Mitchell River Watershed Group. The sense of community in Kowanyama is equal to that of personal



tribe and clan identities, and it is widely regarded as anathema for people to independently negotiate issues to do with Community sea and land interests with outsiders, outside of KLNRM.

Community land and sea management procedures at Pormpuraaw are quite different, largely because the Community Land and Sea Office is still in its early days: people there aspire to have the kind of consensus approach that KLNRM has in its operations and are working on the protocols and procedures required for community-wide participation in land and sea management in Pormpuraaw. Public meetings of the size and frequency of those at KLNRM do not happen at Pormpuraaw as yet, and consultation over land and sea issues is usually done in separate meetings with each homeland group leader who then talks only for their traditional land and sea country (Monaghan & Taylor 2003).

As far as the relationship between Traditional Owners and the DOGIT is concerned, community councillors are almost always Traditional Owners. It is rare for land matters to be raised in the Community Council, whose business is largely to do with the affairs of the township. This separation of land and sea business from Community Council business is likely to increase with future Native Title determinations in the Peninsula. Already the Community Council at Pormpuraaw is exploring ways of transferring DOGIT lands to the title or trusteeship of Traditional Owners through a 'Lands Trust' arrangement, independent of the Native Title process at this stage. This is because it cannot afford to maintain and service homelands and enterprises outside the township under the current structure of government financing of DOGIT communities (Monaghan & Taylor 2003). The Pormpuraaw Aboriginal Council is meanwhile continuing to invest in the development of the Community Land and Sea Management Office so that it can coordinate and manage the affairs of a future Lands Trust.

6.2 Regional-scale sea management

The most important issue in regional-scale planning in the Peninsula is the difference in styles of governance that often exists between even neighbouring communities, such as at Kowanyama and Pormpuraaw. The 'mainstreaming' approach adopted by CYPLUS to community consultation in the mid-1990s failed to recognise the diverse range of traditional natural resource interests and the local politics that exist within communities in the Peninsula (Monaghan 2003c). Similar encounters between Aboriginal communities and State agencies involved in land and natural resource use planning and management have been reported elsewhere (Lane 1993, Lane & Chase 1996). Lane and Chase describe land use projects in the Lockhart River area of the east coast of the Peninsula, and report that despite the existence of formal planning processes that allow for their inclusion, there was often only a limited recognition of Aboriginal perspectives in them.

Too often the 'community' is seen simply as a homogenous unit, with a simple representative structure (the council) which somehow stands for or represents varied local interests in an unproblematic way (Lane & Chase 1996).

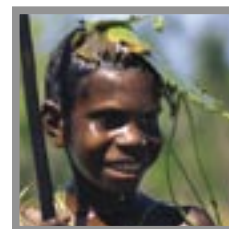
They also advised that

The creation of formal planning structures should be the outcome of careful and detailed local ethnographic inputs; and an appreciation of local historical factors and, more importantly, detailed knowledge about the politics of relevant Aboriginal communities and domains (Lane & Chase 1996).

According to Cordell (1995), and with reference to the CYPLUS process,

... communities cannot afford the skills for land management and participation in planning.

In 1995 the Cape York Land Council initiated, developed and signed the Cape York Heads of Agreement with cattlemen and conservation groups. The Council also negotiated benefits for Aboriginal Cape York Peninsula in the second phase of CYPLUS and continued to represent issues at the regional scale in CYPLUS stage three or CYP 2010.



During these years, Cape York Land Council played a central role in negotiating a Cape York NHT component to be applied to the Heads of Agreement intent and CYPLUS recommendations. The Council further developed a subregional strategy (based on the early Kowanyama KLNRM idea) which covers the whole Cape and to which these funds could be strategically applied. Balkanu Cape York Development Corporation was set up as a consequence of a Kowanyama Land Summit with a view to supporting the subregional structure across the Cape. Both the Cape York Land Council and Balkanu have board members from each Cape York Community. These boards are 100% Indigenous. A comprehensive coverage of Balkanu can be found at www.balkanu.com.au, including general discussion papers. At the regional scale, Cape York Aboriginal leaders have established a partnership with the Queensland State Government (see www.capeyorkpartnerships.com).

Another issue connected to the participation of Indigenous communities in regional planning and management processes is that of inadequate resourcing. Mention has already been made of the range of operations that community land and sea management offices have to perform, and, as involvement in regional planning processes is time-consuming, there has to be an allowance in terms of time and money for the planning materials and proposals to be reviewed and commented on. Planning briefs also have to be well prepared, clear and unambiguous, and the ideas and rationales that underpin them presented in plain English that is commensurate with the literacy levels of local people. Ambiguities lead to misunderstandings and to long meetings.

The main sea country concerns in Peninsula communities are to do with daily sustenance and their subsistence fishery, and the perception that both are depleted by recreational and commercial fishing. The available literature lends the impression that sea food is widely regarded as a community resource in the western and northern Peninsula, and that it is not subject to the same kinds of constraints that apply in some communities to natural resource use on the land, whether these constraints are due to traditional protocols or to introduced land tenures such as the DOGIT or the mining leases in the Weipa/Napranum region. The present day use of sea country in the northern Peninsula area even seems to be a medium for social and economic interaction between Islander and

Aboriginal people, and between 'historical people' and 'traditional people', of a kind that is not so apparent on the landward side of the region (Sharp 1992, MacIntyre & Greer 1995). Control of fisheries is regarded as a local and community concern but also one where communities and government fishery agencies can cooperate and pool their resources (on both sides) in the surveillance of the fisheries (Cooke & Guivarra 1995).

People at Kowanyama have expressed concern of the lack of clarity about where commercial operators are allowed to fish and what they are allowed to catch, and about the need for more cooperation between KLNRM and Queensland State Government agencies in deciding on the location of these areas. At meetings to discuss the Northern Regional Marine Plan, the need for regular reviews, say every two or three years, of the boundaries of commercial fishing areas and the option to give areas a rest if this is deemed necessary was proposed by Traditional Owners (Monaghan 2003d). People felt that, in light of the longstanding and productive relationships that Kowanyama has with government fishery agencies, these issues could be resolved according to these suggestions:

With everybody around the table (Ezra Michael, Yir Yoront elder, 30 June 2003).

Keep it simple (Wilma Gilbert, Kokoberra elder, 11 July 2003).

The surveillance of the Mitchell River Delta and the adjacent Gulf fishery by KLNRM Rangers and by Traditional Owners in their homeland areas is an integral part of community life and the role of homelands. The presence of a boat in Kowanyama waters is common knowledge in the township within hours of its arrival. Surveillance of the sea by local communities is an activity that is valued by fisheries management and quarantine agencies and there is always a sense in local people's minds that they are patrolling the Australian frontier and not just looking after local community interests. This sense of custodianship is a longstanding one. For instance, Chapman, in his mission diaries at Pormpuraaw, records the occasional sighting of hostile Japanese aircraft from the then Edward River mission



and his sending details of their sighting by radio to military authorities in Cairns.

In general, people in the western and northern Peninsula have had little experience of regional-scale planning processes. In a discussion paper entitled *Regional Agreements and Localism: A Case Study from Cape York Peninsula*, Martin (1997) has pointed out that regional agreements between government and Indigenous communities 'need to deal with the political dynamics within the Aboriginal domain as well as between it and wider society'.

Martin proposes that for regional agreements to proceed, the autonomy of local processes must not be threatened. Perhaps the easiest way to deal with the cultural and social diversity of the Peninsula is to deal with each community singly. The common ground that is apparent in the literature in the Peninsula region in the social and economic values of sea country and in sea management concerns may then emerge. Many people in the southern Gulf Lowlands region have acquired mainstream consultation and negotiating skills through land claim processes under the Commonwealth *Native Title Act 1993* and the Queensland *Aboriginal Land Act 1991*, including the negotiation of Indigenous Land Use Agreements (ILUAs). Traditional Owners question why they cannot also use the same kind of processes in natural resource management agreements for their traditional country (Monaghan 2003d).

Figure 28 shows the extent of wetland areas that have been demanded as being of 'national conservation significance' (Abrahams et al. 1995). The nominated wetlands are almost all in saltwater country and they coincide with the major offshore fisheries on the west coast of the Peninsula (see Figures 26 and 27).

The role of ILUAs or Indigenous Protected Area agreements in Aboriginal management of these nominated conservation areas has been discussed in Kowanyama (Monaghan 2003d). The discussions have been centred on securing Kowanyama's vision for sea country:

It all belong to our children. It is for them (Raelene Possum, Yir Yoront elder, 3 July 2003).

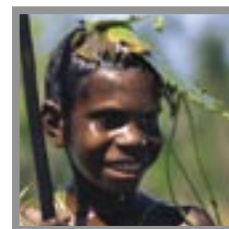
We got to put something up for our children and it'll be there for their children. We all got show that, so we know where we're going. Everything in place (Priscilla Major, Kokobera elder, 11 July 2003).

15 years ago ... different very different. Every year things change. We can look back and it is all different. But looking forward we want those lagoons to be the same now for our children. You go to Kokora them water lilies still there now; we want to see them like that in 15 years time (Colin Lawrence, Kunjen elder, 11 July 2003).

Close your eyes and look back ... And then look forward to the future ... the vision ... we got to think about our young people. We old people all go, our young people need a beautiful community, hold the life for us all. That Mitchell River, that part of Aboriginal country. By-m- by, fifteen years, thirty years time ... we got to put things there for our young people now (Colin Lawrence, Kunjen elder, 11 July 2003).



Figure 28: Significant wetlands of Cape York Peninsula Source: Abrahams et al. 1995



Also, the discussions have looked at the benefits for the rest of Australia in securing this vision, in particular in the roles of homelands in sea surveillance, or in the restoration of degraded sea country or the conservation of other more pristine areas of sea country. The above visions summarise concerns about the sea and water quality, and wildlife and wetlands in saltwater country. These concerns are inextricably interlocked with spiritual, social and cultural connection to country. People feel that their skills, experience and systems of governance can ensure the future of the waters and the sea life of the Mitchell River Delta and the Gulf of Carpentaria (Monaghan 2003d).

People also aspire to manage their country in their own way which is a hybrid practice that combines elements of the Aboriginal domain and the mainstream. For instance, in a survey of wetland use in Kowanyama, a question from one of the researchers about the relative significance of traditional knowledge and mainstream scientific knowledge and management techniques in the ways in which saltwater country was used and managed by the community was met with bemused looks and the declaration that country was managed *our way* or *Aboriginal way* or *Kowanyama way* (Monaghan 2001). People can not see any dichotomy between traditional and more contemporary ways of sea management with maintenance of increase sites and poison sites and the use of GIS, telemetry and geographic information systems all providing parts of *our way* of monitoring sea country. It is the way in which sea country is managed on the west coast of the Peninsula in the 21st century.

In summary, the main points about planning for the future management of sea country in western and northern Cape York Peninsula are that:

- the present capacity to manage sea country differs between communities
- consultation about future management of sea country should be approached on a community by community basis
- the IPA and ILUA processes provide appropriate and generally understood mechanisms for Aboriginal people to participate in mainstream planning or management strategies
- coordination support from Indigenous regional support organisations should be available as requested (and adequately resourced), with a view to aligning subregional and regional strategies at State and Commonwealth level, as well as legal overseeing of prospective agreements.



Part C:

Living on Saltwater Country

Key themes emerging across the
region and policy challenges

By Dermot Smyth
Smyth and Bahrtd Consultants

A report for the North Australian
Indigenous Land and Sea Management
Alliance

STRUCTURE OF THIS PART

Section 1 summarises documented accounts of Aboriginal concerns about current marine environmental and resource management, and Aboriginal needs and aspirations for the future use and management of sea country.

Section 2 summarises key Australian Government initiatives regarding Indigenous rights and interests.



CONTENTS

Section 1:

Concerns and aspirations for Sea Country

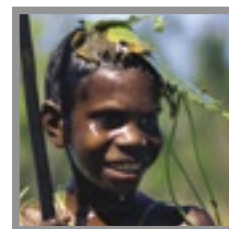
Coastal Zone Inquiry 1992/93	131
Northern Territory	131
Queensland	132
NT Fisheries Consultative Committee meetings 1995-2003	132
Aboriginal and Torres Strait Islander Fishery Strategy	134
Multiple Use Strategy Plan for the Southern Gulf of Carpentaria (MUSP)	136

Section 2: Australian Government initiatives

1984: Commonwealth Department of Primary Industry	139
1991: Ecologically Sustainable Development (ESD) Working Group on Fisheries	140
1993: Coastal Zone Inquiry	140
Audit of Coastal Zone Inquiry Recommendations.	141
1995: Commonwealth Coastal Policy “Living On The Coast”.	147
1995: State of the Marine Environment Report: “Our Sea, Our Future”.	148
1997: Review of Management of Commonwealth Fisheries	148
1997: National Aboriginal and Torres Strait Islander Rural Industry Strategy	149
1998: Australia’s Ocean Policy	152
1999: Strategic Plan of Action for the National Representative System of Marine Protected Areas	156
2000: Fisheries Research and Development Corporation Research and Development Plan 2000 to 2005	157
2001: A National Aquaculture Development Strategy for Indigenous Communities in Australia.	159
2000: ATSIC review of Indigenous commercial fisheries rights and interests.	161
2001 - 2003: National Recreational Fisheries Survey	161
2001: National Objectives and Targets for Biodiversity Conservation.	161
2001 - 2003: Review of Commonwealth Fisheries Management	162

TABLES

Table 16: National Aboriginal and Torres Strait Islander Rural Industry Strategy Audit of Actions	150
Table 17: Indigenous Targets and indicators for addressing Indigenous issues in biodiversity conservation.	162
Table 18: Summary of key themes and challenges arising from the literature reviews	171



SECTION 1: CONCERNS AND ASPIRATIONS FOR SEA COUNTRY

Aboriginal concerns and aspirations for sea country within the Planning Area have been documented through several consultative processes over the last decade. The following summary of issues and aspirations raised by saltwater people of the Gulf of Carpentaria and Arafura coasts are based on consultations that took place during:

- The Coastal Zone Inquiry (Smyth 1993, Resource Assessment Commission 1993)
- NT Fisheries Consultative Committee meetings 1995–2003 (Scott 2003)
- Aboriginal and Torres Strait Islander Fisheries Strategy workshops 1998 (Qld) (Smyth 1999)
- Multiple Use Strategic Plan for the Southern Gulf of Carpentaria 1998–1999 (Environment North 1999).

As part of the current development of a Regional Marine Plan for northern Australia, the Northern Land Council, Carpentaria Land Council and Balkanu Cape York Development Corporation undertook consultations with coastal Aboriginal communities throughout the Planning Area. Outcomes of these consultations are currently being compiled and will be published by the National Oceans Office in due course

Coastal Zone Inquiry 1992–93

During the Coastal Zone Inquiry, consultations with coastal Aboriginal people took place in many coastal locations around Australia, and submissions were received from land councils and other regional and national Indigenous organisations. Within the Planning Area, consultations occurred at Maningrida, Nhulunbuy and Groote Eylandt, and submissions were received from the Northern Land Council, the Cape York Land Council, Aurukun Community Inc., Aboriginal Coordinating Council, and Doomadgee Community Council.

Northern Territory

The key concerns raised in consultations and submissions in the Northern Territory were:

- Limitations of sea closures
- Impact of commercial and recreational fisheries
- Lack of Aboriginal involvement in fisheries management
- Marine sacred site protection
- Environmental protection.

Sea closures

The submission from the Northern Land Council (Northern Land Council 1992) noted the following limitations of the sea closure process:

- *The process is costly and lengthy.*
- *The exact boundaries of the closed seas are difficult to determine because of the imprecise legal definition of 'low water mark' from which the 2 km strip of close sea is measured. This is a crucial issue along the Arnhem Land coast where seabed gradients are low.*
- *If the closures are granted, exemptions have been given to all commercial fishers who held a fishing licence prior to the closure, and to their employees. Such commercial licences cannot be transferred.*
- *The closure does not explicitly empower the Aboriginal landowners to enforce the closure.*
- *Sea closures are essentially a negative device and do not put Aboriginal people in contact with the resource managers nor more importantly give them any involvement in resource management.*



Commercial fisheries

Smyth (1993) reports that Aboriginal people's concerns about commercial fishing operations in coastal areas where there are resident Aboriginal populations include:

- *Invasion of privacy*
- *Wastage of marine resources (by-catch discarded)*
- *Lack of consultations by commercial fishers of Aboriginal owners of land and customary marine estates*
- *Threats to marine sacred sites*
- *Lack of financial rewards to traditional owners from commercial fishing operations in their marine estates.*

Protection of marine sacred sites

Aboriginal people reported that marking marine sacred sites with buoys did not always deter commercial fishers from entering the areas. Some Aboriginal people suggested that Traditional Owners should be given direct management responsibilities for such sites, because police and fisheries officers sometimes do not have sufficient resources to control the activities of commercial fishers in remote parts of the Northern Territory coast.

Environmental protection

Some Aboriginal people in Nhulunbuy expressed concern about the possibility of pollution entering the sea from the nearby bauxite processing plant.

Queensland

Key issues that arose in Coastal Zone Inquiry consultations and in submissions relating to the Queensland portion of the Planning Area were:

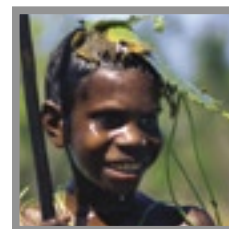
- Damage caused by commercial and recreational fishing, particularly barramundi fishing and prawn trawling, to subsistence resources including fish, dugong and turtle
- Lack of formal involvement of coastal Aboriginal people in the management of commercial or recreational fishing
- Lack of commercial benefit flowing to coastal Aboriginal people from commercial use of resources within their customary marine estates
- Lack of recognition of traditional rights to manage customary marine estates and resources
- Inadequate support for the role Aboriginal Community Rangers in coastal zone management
- Inadequate protection of Aboriginal cultural sites, inappropriate legislation and lack of recognition.

NT Fisheries Consultative Committee meetings 1995–2003

Based on an analysis of minutes of Fisheries Consultative Committee meetings in the Northern Land Council region from 1995 to 2002 (Scott 2003), the following issues are of concern to Traditional Owners in northeast Arnhem Land and Gulf of Carpentaria:

- Sacred site protection
- Access to fishing areas
- Illegal fishing practices
- By-catch and wastage
- Pollution and ecological damage
- Inadequate enforcement
- Aboriginal participation in enforcement.

The range of fisheries incidents reported by Traditional Owners at the Consultative Committee meetings included:



- Oversized crab pots
- Illegal nets
- Fishing inside closure lines
- Overfishing
- Reef destruction
- Illegal trading of protected species
- Discharging guns
- Poaching and taking undersized fish
- Illegal camping
- Illegal bait
- Catching turtle and dugong
- Trespass on country
- Incursions onto sacred sites.

Scott (2003) notes that the importance of Traditional Owners being able to grant or deny access to commercial fishers and crabbers to country is a recurring theme in Consultative Committee meetings. He notes that:

Aboriginal people generally prefer that an access agreement can be reached. In a number of cases, such as in the Sandy Creek area of West Arnhem Land and in the Blue Mud Bay area in East Arnhemland agreements have been reached with fishers and crabbers which includes designated camping spots.

Scott (2003) reports that:

Each committee had similar concerns about overfishing of certain species and overfishing in general. Turtle and dugong by-catch was of particular concern in the Gulf of Carpentaria around Borrooloola and the Sir Edward Pellew Islands, and in the Beagle Gulf region. Illegal crabbing camps were of major concern in the Limmen Bight area, whilst the use of illegal nets figured high on the list of concerns for the Numberindi & Wurralhaliba Committee(s).

Another concern raised at the Consultative Committee meetings was the lack of outcomes from this form of involvement in fisheries management. Scott (2003) reports that the initial enthusiasm of Traditional Owners about the Consultative Committees has disappeared after five years:

This is perhaps best represented in the minutes of the meetings of the Manbuynga ga Rulyapa Consultative Committee. At the initial meeting at Elcho Island in August 1997 Yolngu Traditional Owner Terry Yumbulul said that it was a good time to form a committee and talk about fisheries management. His message to the NT Government was that 'we do it together'. In subsequent meetings he stated on occasions that he believed that these Committees were leading the way for other states in the area of Aboriginal involvement in fisheries management.

By November 2002, however, when a special meeting was held in order to 'clear the air', Terry Yumbulul, along with other Traditional Owners, expressed disillusionment with the limited outcomes of the consultative process. Plans to train and employ Aboriginal marine enforcement officers in the area had come to nothing due to lack of funding from the NT Government, local involvement in commercial fishing had been continually hampered by financial and legislative barriers, whilst complaints about overfishing and by-catch had been poorly addressed. Indeed, the only outcome of note had been the introduction of possession limits for the Northern Rock Lobster Fishery, although one Traditional Owner complained at the December 2002 meeting that even these were not being adequately enforced. After more than five years of consultation, Terry Yumbulul said, it was always 'one way' and nobody stopped to consider Yolngu people's views. Manbuynga ga Rulyapa, he stated, to the Committee, wanted a total closure of their waters to fishing as of now.

The analysis of discussions and outcomes of the Fisheries Consultative Committees concludes:

The overwhelming message that comes from this analysis is that fisheries management and enforcement in the Northern Territory requires more active Aboriginal involvement. Aboriginal people retain strong connections with their sea country. They are aware who is on their country, with or without their permission, and the affect this is having on their resource base and the marine ecosystem in general. It is absolutely essential that systems are set up that allow Aboriginal people to



report any suspected illegal fishing or crabbing activity to enforcement officers close to where the offence is occurring. That entails, in the first instance, more trained enforcement officers on the ground in local communities. It also requires clearly laid out reporting procedures. As indicated earlier, the regional offices of the Northern Land Council could play a more formalized role here.

Ultimately, however, a more active Aboriginal role in the decision-making process surrounding fisheries management in the Northern Territory is required. As this report shows, consultation unaccompanied by action, will surely lead to even greater levels of frustration for Aboriginal people. Any future consultation process will need to be situated within a more broadly defined fisheries co-management model that recognises Aboriginal land, sea and resource rights (Scott 2003).

Aboriginal and Torres Strait Islander Fishery Strategy

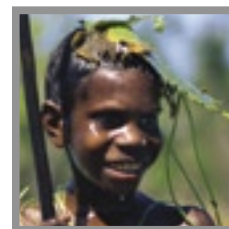
During 1998 a series of four regional workshops were held around the Queensland coast to consult Aboriginal people about fisheries issues and to involve them in developing an Aboriginal and Torres Strait Fisheries Strategy for Queensland. This initiative was funded by the Commonwealth Government as a direct outcome of recommendations from the final report of the Coastal Zone Inquiry (Resource Assessment Commission 1993), and was part of a goal to develop a National Indigenous Fisheries Strategy. Several states have now completed the development of an Aboriginal Fishery Strategy, but national support for the concept lapsed in 1998 (Smyth 2000). Queensland is one of the states that have not proceeded with a strategic, state-wide approach, and the issues raised and recommendations made at the four regional workshops have largely been ignored by fisheries managers. As noted above, the exception to this inaction is Cape York Peninsula, where initiatives under the Cape York partnership program have been initiated.

The regional workshop directly applicable to the Planning Area was held in Normanton in October 1998. Attending this workshop were Traditional Owners from the southern Gulf of Carpentaria and western Cape York Peninsula, the Cape York Land Council, Balkanu Cape

York Development Corporation, and the Carpentaria Land Council, as well as representatives of Queensland's fisheries management agency (in 1998 it was the Queensland Fisheries Management Authority, now the Queensland Fisheries Service), commercial fishers and recreational fishers. Recommendations made at this workshop are reproduced below, followed by a selection of Summary Recommendations that were developed following the four workshops to address common issues across the state (Smyth 1999).

Recommendations from the Normanton Workshop

1. Organise a way to represent the whole range of Traditional Owners of the Gulf and Western Cape York Peninsula
2. Obtain funds to resource representatives to attend meetings and disseminate outcomes
3. Ensure equal representation of Traditional Owners on fisheries planning committees
4. Formulate ways to bridge the gap between fisheries planning committees and Traditional Owners
5. Put pressure on fisheries organisations, such as DPI and QFMA, to implement employment strategies aimed at Aboriginal and Torres Strait Islander people
6. Traditional Owners should be actively involved in research
7. DPI should inform Traditional Owners of research aims and consult with them before entering areas in which they wish to do research
8. Traditional knowledge should be incorporated in any research project
9. Plans should be made to protect intellectual and cultural property rights
10. Traditional Owners should be represented on research funding bodies
11. Community Rangers should have real powers of law enforcement
12. Invite members of funding research bodies (FRDC and QFIRDC) to talk with Traditional Owners



13. Government training initiatives should meet the long-term employment goals of Aboriginal and Torres Strait Islander people
14. Set up a Cape/Gulf fisheries organisation made up of Traditional Owners, moving towards self-management, and pressuring governments to recognise the authority of this organisation
15. Make the international community aware of these issues and investigate the outcomes of Indigenous fisheries agreements from Canada, New Zealand and elsewhere
16. Control the commercial utilization of wildlife
17. Undertake a review of commercial fishing licensing – including the extensions of operation of Community Fishing Licences beyond the Deed of Grant in Trust areas
18. Develop schemes, with government backing, by which Traditional Owners can purchase commercial fishing licences
19. Control littering of shore and water with by-catch and litter in general
20. Pressure the Government to make a strong commitment to financially support Indigenous fishing strategies
21. Indigenous fishing authority should begin setting rules and implementing management plans
22. A percentage of income from commercial fishing should go towards financial support for Indigenous fishing strategies
23. Tourism should be obliged to get clearance from Traditional Owners before making an application for permits from government agencies
24. Disaster plan and resources for tackling pollution in the Gulf region should be seriously considered
25. Use the uncertainty of native title to establish agreements
26. Establish a set of protocols, or code of practice, approved by Traditional Owners, for commercial and recreational fishers to follow when fishing.

Summary recommendations that apply to the Gulf region

- QFMA should review the operations and scope of the current system of allocating Commercial Fishing Licences (authorities) to Deed of Grant in Trust Communities. The review should explore the possibility of allocating Community Fishing Licences to Aboriginal groups located outside DOGITs
- QFMA, together with DPI, ATSIIC and Aboriginal organisations and groups, should explore options and seek funds for the purchase of commercial licences for Aboriginal fishers
- A percentage of income from commercial fishing should go towards financial support for Indigenous fisheries strategies
- QFMA and DPI should develop long-term Aboriginal training and employment strategies
- Establish a fisheries committee or organisation for the Gulf and western Cape York Peninsula that is representative of all Traditional Owner groups
- Indigenous representatives should be appointed to all Queensland and Commonwealth fisheries research advisory and funding bodies
- Establish a process to develop partnerships between research organisations and Indigenous organisations.



Multiple Use Strategic Plan for the Southern Gulf of Carpentaria (MUSP)

The Multiple Use Strategic Plan for the Southern Gulf of Carpentaria (MUSP) was an Australian Government commitment arising from concerns about possible environmental impacts on the marine environment resulting from the Century Zinc Mine. During negotiations for the Century Zinc Project in 1996, the Commonwealth Minister for Resources and Energy committed the Australian Government to work with the Queensland Government, the United Gulf Region Aboriginal Corporation, industry, local communities and other stakeholder groups to develop a strategic approach to:

- a) management of the Gulf marine environment
- b) sustainable development of land and marine resources in the Gulf Region.

As a result of the right-to-negotiate process under the *Native Title Act 1993* (Cwlth), an agreement was reached between the Waanyi, Mingginda, Gkuthaarn and Kukatj peoples, the State of Queensland and Century Zinc Limited, known as the Century Mine Agreement. Relevant provisions of this agreement are:

- 61 *Queensland will develop, with the Commonwealth, and in consultation with key stakeholders (including Native Title Groups and Committees), a draft Multiple Use Strategic Plan for the Southern Gulf waters.*
- 62 *After the collation of existing environmental and bio-physical data for these waters, the drafting of this Multiple Use Strategic Plan will have three principal goals:*
 - a) *the development of a coastal zone management plan for the Southern Gulf*
 - b) *to provide a baseline of data which will allow the measurement of the environmental impacts of the [Century Mine] Project and other developments*
 - c) *to provide environmental information to stakeholders.*

Consultants engaged to develop the MUSP consulted with Aboriginal communities and organisations, industries and various interest groups during 1998 and 1999, and collated available information on the biophysical environment, social and cultural values and economic issues relating to the region. From this information the following 15 strategies were developed:

Strategy 1 – Taking of protected species, including turtle and dugong hunting

Strategy 2 – Fishing

Strategy 3 – Tourism

Strategy 4 – Marine protected areas

Strategy 5 – Coastal and terrestrial protected areas

Strategy 6 – Cultural heritage, including Indigenous and non-Indigenous heritage

Strategy 7 – Homelands, including the need to establish culturally and environmentally sustainable management

Strategy 8 – Catchment land use

Strategy 9 – Pests and fire

Strategy 10 – Hazards and emergencies

Strategy 11 – Ports, shipping and navigation

Strategy 12 – Strategic environmental assessment

Strategy 13 – Policing and surveillance

Strategy 14 – Data collection, monitoring and information management

Strategy 15 – Integration and coordination

Neither the Australian nor the Queensland governments has resourced the MUSP beyond the planning stage, and hence none of the 15 recommended strategies have been implemented. However, the MUSP Report notes (Environment North 1999):



By and large that within sectors and interest areas, the existing raft of management mechanisms are generally capable of addressing most of the strategic management needs. In areas where management needs are not currently being met, this is often due to a combination of factors that include:

- existing management mechanisms that do not adequately reflect the context and local circumstances of the Gulf communities
- a lack of understanding of local aspirations
- a lack of resourcing.

While this is generally the case within sectors and interest areas, there are some instances where un-met management needs do arise from the absence of appropriate management mechanisms.

These cases include:

- the management of tourist use of Aboriginal lands
- access to protected marine resources for sustenance and cultural purposes by Indigenous communities
- the absence of protocols to provide agreed processes and arrangements for undertaking investigations and participating in negotiations with traditional owners of the land and marine areas.



SECTION 2: AUSTRALIAN GOVERNMENT INITIATIVES

The current regional marine planning process being undertaken by the National Oceans Office is one of at least eight marine and coastal environmental strategic initiatives undertaken by the Australian Government over the last 20 years in which Aboriginal rights and interests have been addressed. These initiatives are:

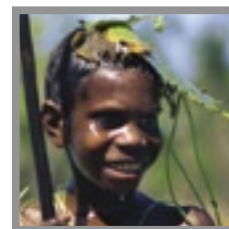
- 1984: Commonwealth Department of Primary Industry review of Aboriginal uses and interests in the sea (Lawson 1984)
- 1991: Ecologically Sustainable Development (ESD) Working Group on Fisheries (Commonwealth of Australia 1991)
- 1993: Coastal Zone Inquiry (Resource Assessment Commission 1993, Smyth 1993)
- 1995: Commonwealth Coastal Policy: 'Living On The Coast' (Commonwealth of Australia 1995)
- 1995: State of the Marine Environment Report: *Our Sea, Our Future* (Zann 1995)
- 1997: Review of Management of Commonwealth Fisheries (Commonwealth of Australia 1997)
- 1997: National Aboriginal and Torres Strait Islander Rural Industry Strategy (Commonwealth of Australia 1997)
- 1998: Australia's Ocean Policy (Commonwealth of Australia 1998)
- 1999: Strategic Plan of Action for the National Representative System of Marine Protected Areas (Environment Australia 1999)
- 2000: Fisheries Research and Development Corporation Research and Development Plan 2000 to 2005 (FRDC 2000)
- 2000: ATSIC review of Indigenous commercial fisheries rights and interests (Tsamenyi and Mfodwo 2000)

- 2002: A National Aquaculture Development Strategy for Indigenous Communities in Australia (Lee and Nel 2001)
- 2003: Review of Commonwealth Fisheries policy (AFFA 2003).

These initiatives, along with the recommendations and outcomes that have flowed from them, are summarised below. The extent of Aboriginal involvement in these initiatives has varied depending on resources made available, but wherever possible, coastal Aboriginal communities and their representative regional organisations have taken an active role, and in some cases have hosted major regional workshops (see for example Smyth 1993 & 1999). Though the focus of these government initiatives has varied (coastal management, marine management, rural industry development, fisheries management, etc.) the input from Aboriginal people, communities and organisations has consistently stressed the following key elements of the relationship between Traditional Owners and their sea country:

- Rights and responsibilities of particular groups of Aboriginal people to particular areas of sea country
- The integration of coastal land and adjacent seas with regard to ownership, management, resource use, spirituality and cultural identity
- Involvement in the management of coastal and marine environments in an equitable and mutually respectful manner
- The desire to protect and manage sea country resources for food, economic and cultural purposes
- The desire to control and benefit from commercial exploitation of sea country resources.

The following summary of the Australian Government's role in policy development on the recognition of Indigenous peoples' rights and interests in marine resource management over the last 30 years is adapted from Smyth (2000, 2002).



1984: Commonwealth Department of Primary Industry

The first documented Australian Government initiative to address Indigenous peoples' marine interests was a research project undertaken by an officer of the Commonwealth Department of Primary Industries in the early 1980s. Her report (Lawson 1984) documents Aboriginal uses and interests in the sea from pre-colonial times to the present, and examines the extent to which State and Commonwealth legislation recognised Indigenous marine interests at that time. Though most of the report focuses on northern Australia, some information is provided about Indigenous marine interests in all jurisdictions. In southern Australia, for example, she notes that new fisheries legislation in Victoria and South Australia in the 1960s and 1970s removed recognition of Aboriginal fisheries rights that had existed in earlier legislation.

Fifteen years before the recognition of native title in the sea by the High Court in 2001, this Australian Government officer summarised her interpretation of Aboriginal ownership and use of the sea as follows:

There can be no denial of the fact that Aborigines do have a system of sea tenure but these are currently not recognised as forms of title to the sea. Perhaps less fundamental but of more direct relevance to the survival of Aboriginal culture and lifestyle, at least in the short term, is their right to exploit marine resources for subsistence purposes, and their right to control access to territory which is of sacred significance to them. The entitlement of Aborigines to special commercial fishing rights is another issue to be resolved, particularly in the light of the North American experience. In this context it is not related to the issue of assistance to Aborigines to 'develop', although commercial fishing ventures are a means to achieve this. Rather commercial fishing rights, as opposed to concessionary treatment, are a natural consequence of recognition of traditional and unrelinquished ownership of the sea.

The report concludes with the following observations and recommendations:

It is apparent that many White Australians have difficulties coming to terms with traditional Aboriginal land tenure systems, which connect spiritual affiliation with owned territory. These conceptual problems are accentuated when the area under discussion is sea, particularly in light of the ancient European belief

that marine resources are common property. This is despite the fact that tenure is practiced by many modern nations in the way they manage their fisheries through complex State, national and international legal arrangements. Systems of sea tenure among Indigenous peoples, however, are not generally recognised as legitimate in Australia. Rights of Aborigines, vital as they might be to them, are not easily communicated to White Australians who usually regard their own rights as superior. Because Aborigines have been reticent in expressing and defining their rights in recent times, this is often perceived by Whites as proof that Aborigines make no serious claim to territory whether it be land or sea.

There is an urgent need to conduct further research into Aboriginal utilization of the sea, for at least two reasons. One is so Aboriginal traditions are recorded and retained to the greatest possible extent to enable Aborigines who choose to do so to live traditionally, instead of having to live on the fringe of White Australian society. Another important reason for research is to determine the extent of exploitation of marine resources so that fisheries can be managed effectively. This is particularly urgent with respect to overexploitation of such resources as dugong and turtles, both for the survival of the species and of the Aboriginal tradition of exploiting them.

Most of the research in which the Fisheries Division of the Commonwealth Department of Primary Industry is likely to be involved in is of a biological nature. It is important that the research takes into account the fact that Aboriginal exploitation of marine resources is part of a highly complex system of knowledge, beliefs and attitudes which relate the resources to a wide structure, often involving elements of the mythological past.

In the complex area of cultural continuity and change the adoption of European fishing methods does not mean that the traditional system of beliefs has lost force, nor that a particular resource is necessarily exploited at a higher level than in pre-contact times, though this might be the case.



With Aboriginal cultures under pressure because Europeans seek to assimilate Aborigines into their own culture, albeit to a limited extent, traditional activities such as dugong hunting may be of greater significance than mere food gathering. It is encouraging that Aboriginal traditions are seen as a necessary consideration to be taken into account in fisheries resource management.

1991: Ecologically Sustainable Development (ESD) Working Group on Fisheries

The Lawson report was never published and there is no evidence of the further policy development and research that the report recommended. Seven years later, however, the Australian Government commissioned an independent consultant's report on Indigenous use and management of the sea as part of work undertaken by the Ecologically Sustainable Development (ESD) Working Group on Fisheries.

The Working Group included senior government officers, academics and representatives of commercial and recreational fishing interests. Despite the findings of the 1984 Lawson Report, there were no representatives of Australia's Indigenous fishers. Lobbying by a non-government conservation group member resulted in the commissioning of a report on Indigenous fisheries being prepared by an anthropologist with international experience in documenting customary marine tenure.

Titled *'Managing Sea Country: Tenure and Sustainability of Aboriginal and Torres Strait Islander Marine Resources'* (Cordell 1991), the report laid out plainly the nature and scope of Indigenous people's relationships with Australia's seas and marine resources:

Customary Marine Tenure (CMT) systems, and ways of managing sea country, vary from community to community around Australia, but they have a critical common denominator. They consist of collective or communal domains – discrete, culturally defined territories, controlled by traditional owners.

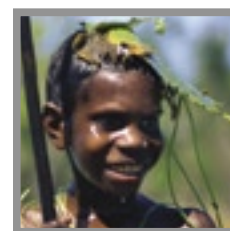
As a result of Cordell's report, the Working Group included the following recommendations in their final report to the Australian Government:

1. Undertake a comprehensive evaluation of government relationships to Indigenous coastal communities, with regard to fisheries management issues and arrangements, laws, obligations, local needs and customs, and traditional environmental knowledge
2. Integrate the Indigenous sector in a national framework for coastal fisheries and marine management
3. Investigate new co-management procedures with Indigenous communities
4. Ensure that Indigenous communities have a membership on management advisory committees of appropriate fisheries.

1993: Coastal Zone Inquiry

The recommended comprehensive evaluation of Indigenous fisheries interests recommended by the Fisheries ESD report did not eventuate. A year later, however, an Australian Government inquiry into the management of Australia's coastal zone, undertaken by the Resource Assessment Commission (since disbanded), provided another opportunity for Indigenous sea country voices to be heard. Although the Terms of Reference for the Coastal Zone Inquiry made no mention of Indigenous issues, the Resource Assessment Commission approved funding for a report on Aboriginal and Torres Strait Islander interest in the coastal zone. A few months later the High Court brought down the Mabo native title decision and Indigenous issues were suddenly front-page news.

Unlike the two earlier reports, this consultancy had access to resources of a well-funded national Inquiry which enabled extensive consultations and workshops with Indigenous communities and organisations to be held in most coastal regions of Australia, including Torres Strait and Bass Strait. The consultancy report (Smyth 1993) summarised the outcomes of these discussions, as well as issues raised in written submissions to the Inquiry. The Resource Assessment Commission also commissioned a desktop study on Aboriginal use and management of Australia's Coastal Zone (Altman et al. 1993) and a review of international developments in Indigenous coastal zone management (Jull 1993).



The *Coastal Zone Inquiry Final Report* (Resource Assessment Commission 1993) devoted a chapter to Indigenous coastal issues, which begins with the following observation:

Aboriginal and Torres Strait Islander people were the earliest owners and managers of Australia's coastal zone. Today many Indigenous communities maintain an active interest and involvement in coastal zone management; in some areas they retain ownership rights.

The *Coastal Zone Inquiry Final Report* contained ten recommendations regarding Indigenous customary rights to use and manage traditional estates in coastal land and sea areas, to benefit commercially from the exploitation of coastal zone resources and to be involved in all levels of coastal zone management. With respect to Indigenous fisheries, the Inquiry called for the development of an Aboriginal and Torres Strait Islander Fisheries Strategy. This strategy was to be developed jointly by fisheries agencies, ATSIC, Aboriginal Land Councils and other

Indigenous organisations, under the auspices of a Ministerial Council drawn from the Commonwealth and all State and Territory governments. It was recommended that the Strategy include a number of measures similar to those proposed previously by the ESD Working Group on Fisheries. It also called for measures to improve economic development and employment opportunities in fisheries and mariculture ventures, and for measures to improve relations between Indigenous communities, fisheries agency staff and commercial fishers.

Audit of Coastal Zone Inquiry recommendations

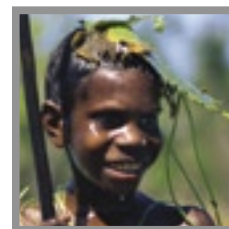
The following tables summarise the 10 Coastal Zone Inquiry recommendations and the extent to which these recommendations have been implemented to date.

RECOMMENDATION	COMMONWEALTH	NT	QLD
<p>R.17 Recognition of hunting, fishing and gathering rights</p> <p><i>The Inquiry recommends that the Council of Australian Governments initiate a process whereby traditional hunting, fishing and gathering rights are recognised by governments and amendments are made to laws and regulations to incorporate this recognition and provide for mechanisms for resolving disputes.</i></p>	<p>No national initiative has occurred, other than recognition of hunting, fishing and gathering via the Native Title Act and as the result of various court decisions, e.g. the <i>Yanner</i> and <i>Yamirr</i> High Court decisions.</p>	<p>Subsistence fishing right exercised according to Aboriginal tradition recognised in <i>Fisheries Act 1995</i>.</p>	<p>Subsistence fishing right exercised according to Aboriginal traditional and Island custom recognised in <i>Fisheries Act 1994</i>.</p>



RECOMMENDATION	COMMONWEALTH
<p>R.18 Commonwealth legislation to establish national criteria for hunting, fishing and gathering rights</p> <p><i>The Inquiry recommends that, in the event of failure during 1994 to negotiate satisfactory nationwide arrangements for traditional hunting, fishing and gathering rights, the Commonwealth enact legislation to establish national criteria for such rights; the legislation be based on the principles, priorities and definitions recommended by the Law Reform Commission in its 1986 report on customary laws and be agreed through negotiations with the Aboriginal and Torres Strait Islander Commission and representatives of land councils and other Indigenous organisations.</i></p>	<p>No legislation has been enacted to establish national criteria for recognition of Indigenous hunting and fishing rights, other than via the Native Title Act.</p> <p>The EPBC Act contains limited recognition of Indigenous rights to resources, via the ability to apply for permit exemptions with respect to threatened species or ecological communities under section 201 of the Act.</p>

RECOMMENDATION	COMMONWEALTH
<p>R.19 Indigenous participation in management of marine protected areas</p> <p>The Inquiry recommends that the Australian and New Zealand Environment and Conservation Council (ANZECC) in conjunction with ATSIC, land councils and other Indigenous organisations, establish criteria for the participation of Indigenous people in the management of conservation areas, including national parks, marine parks and World Heritage Areas.</p> <p>(ANZECC has now been disbanded.)</p>	<p>In 1999 ANZECC released guidelines for the establishment of a representative system of marine protected areas. The Guidelines included limited recognition of Indigenous interests and involvement, including:</p> <ul style="list-style-type: none"> • recognition of the cultural needs of Indigenous people • recognition of the interests of Indigenous people in decision-making • recognition of the need to consider whether a marine area has Indigenous cultural values and native title issues when considering a site for a marine protected area.



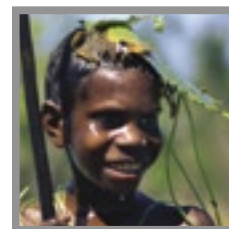
RECOMMENDATION	COMMONWEALTH
<p>R.20 National support for Aboriginal Community Rangers</p> <p>The Inquiry recommended that ATSIC and the Australian Nature Conservation Agency, in conjunction with state resource management agencies:</p> <ul style="list-style-type: none"> • support, extend and coordinate nationally the Community Ranger system • support the establishment of Aboriginal Land and Natural Resources Management Offices, such as at Kowanyama (North Qld) • review funding options for these initiatives, including the provision of additional Commonwealth and State funds, the negotiation of subcontracting arrangements with those resource management agencies that benefit from these initiatives, the earmarking of a proportion of the budgets of such agencies for supporting the initiatives, and the payment of fees and royalties by the users of resources in areas owned or controlled by Indigenous people. 	<p>No national policy or strategy has been developed specifically to support Community Rangers. However, several Commonwealth initiatives have delivered support to Community Rangers and the establishment of Aboriginal land and sea management agencies. These initiatives include:</p> <ul style="list-style-type: none"> • Natural Heritage Trust (NHT) project funding • Employment of Indigenous Land Management Facilitators to assist in accessing and applying NHT funding • Resourcing the declaration, planning and management of Indigenous Protected Areas (IPAs) • Elements of the (discontinued 1997) Contract Employment Program for Aboriginals in Natural and Cultural Resource Management (CEPANCRM).

RECOMMENDATION	COMMONWEALTH	NT	QLD
<p>R.21 Establishment of Indigenous policy units within Commonwealth and State environmental and resource management agencies.</p> <p>The Inquiry recommended:</p> <ul style="list-style-type: none"> • <i>that State and Commonwealth natural resource management agencies establish units to provide advice on Indigenous interests as part of policy-making mechanisms, and consult with representatives of Indigenous organisations and peak industry bodies in establishing these units</i> • <i>that ATSIC ensure that land councils and other Indigenous organisations have sufficient resources to carry out their responsibilities effectively when administering procedures for development proposals.</i> 	<p>No national program to establish Indigenous policy units in Commonwealth and State agencies has been developed. However, some Commonwealth agencies, such as Environment Australia (EA), the Great Barrier Reef Marine Park Authority (GBRMPA) and Agriculture, Fisheries and Forestry – Australia (AFFA) have established such units.</p>	<p>Specialist policy and field staff are employed within environment and resource management agencies.</p>	<p>Specialist policy and field staff are employed within environment and resource management agencies.</p>



RECOMMENDATION	COMMONWEALTH
<p>R.22 Support for Mining Committee of the Council for Aboriginal Reconciliation</p> <p>The Inquiry recommended that the Department of the Prime Minister and Cabinet provide full support for the Committee's proposed Joint Council on Aboriginal Land and Mining.</p>	<p>The Council for Aboriginal Reconciliation ceased to exist at the end of the year 2000.</p> <p>The Mineral Council of Australia has developed a Statement of Principles for accessing Aboriginal land for mineral exploration and mining, but the proposed Joint Council on Aboriginal Land and Mining has not been established.</p>

RECOMMENDATION	COMMONWEALTH	NT	QLD
<p>R.23 Development of an Indigenous Fisheries Strategy</p> <p>The Inquiry recommended that the Ministerial Council on Forestry, Fisheries and Aquaculture, in conjunction with ATSIC and representatives of land councils and other Indigenous organisations, prepare an Aboriginal and Torres Strait Islander Fisheries Strategy, with the following key elements:</p> <ol style="list-style-type: none"> 1. <i>Assessment of Indigenous fisheries interests</i> 2. <i>Representation of Indigenous people on advisory committees</i> 3. <i>Measures to include economic development and employment opportunities for Indigenous communities in fisheries and mariculture.</i> 	<p>The Commonwealth Department of Environment provided funding to the Department of Primary Industry and Energy for distribution to State fisheries agencies to commence development of Indigenous Fisheries Strategies.</p> <p>No further coordination of a national Indigenous fisheries strategy has occurred, though Commonwealth commitments to support sustainable Aboriginal fisheries and enhance Aboriginal involvement in commercial fisheries appear in the Aboriginal and Torres Strait Islander Rural Industries Strategy and Australia's Oceans Policy.</p> <p>AFFA has developed a National Indigenous Aquaculture Development Strategy (AFFA 2001).</p> <p>The Commonwealth, through the Fisheries Research and Development Corporation (FRDC), funded a survey of recreational and Indigenous fishing around Australia.</p>	<p>Accepted Indigenous Fisheries Strategy funding and has since developed Aboriginal Fisheries Consultative Committees, but has not developed a comprehensive strategy.</p>	<p>Accepted Indigenous Fisheries Strategy funding and conducted four regional consultative workshops.</p> <p>Significant Indigenous fisheries initiatives are being implemented via the Cape York Partnership process, but no state-wide strategy has been developed.</p>

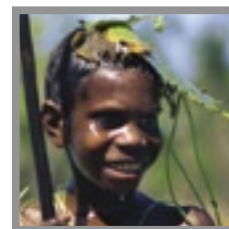


RECOMMENDATION	COMMONWEALTH
<p>R.24 Evaluation of Australian Centre for International Agricultural Research in supporting Indigenous fisheries in Pacific Islands</p> <p>The Inquiry recommended that ATSIC evaluate the experience of the Australian Centre for International Agricultural Research (ACIAR) in supporting Indigenous fisheries in the Pacific Islands, with a view to determining options for improving education and training among Australia's Indigenous fishing communities.</p>	<p>No such evaluation has taken place.</p> <p>However, ACIAR has included working with Australian Indigenous groups in northern Australia as part of some of its overseas aid projects, though none of these specifically address fisheries issues.</p>

RECOMMENDATION	COMMONWEALTH	NT	QLD
<p>R.25 National policy on ownership of and access rights to Indigenous cultural property, including places, objects and information</p> <p>The Inquiry recommended that the Australian Aboriginal Affairs Council, in conjunction with representatives of land councils and other Indigenous organisations, speedily adopt a national policy on ownership of and access rights to Indigenous cultural property, including places, objects and information.</p>	<p>The Australian Heritage Commission has developed draft guidelines to assist developers, researchers, cultural heritage professionals and other land users in dealing with issues relating to the identification, management and use of Indigenous heritage places.</p> <p>The Commonwealth commissioned a review into the <i>Aboriginal and Torres Strait Islander Heritage Protection Act 1984</i> (Evatt 1996).</p>	<p>Aboriginal cultural sites are registered and protected under the Sacred Sites Act, though the effectiveness of protection has been questioned by Traditional Owners.</p>	<p>Draft heritage bill currently before parliament.</p>



RECOMMENDATION	COMMONWEALTH	NT	QLD
<p>R.26 Review of the role of Commonwealth programs and legislation in securing a national approach to recording and protecting Indigenous cultural heritage.</p> <p>The Inquiry recommended that ATSIC, the Australian Heritage Commission and the Australian Nature Conservation Agency (now Environment Australia), in conjunction with representatives of land councils and other Indigenous organisations, review the role of Commonwealth programs and legislation in securing a national approach to recording and protecting Indigenous cultural heritage.</p> <p>The review should be conducted with a view to:</p> <ul style="list-style-type: none"> • establishing a national Aboriginal and Torres Strait Islander Heritage Council to provide funds and advice to local Indigenous communities so that they can record and protect cultural heritage sites and information and coordinate the activities of existing government agencies administering programs of this kind • extending to other states, provisions in existing Commonwealth heritage protection legislation that currently relate only to Victoria • examining the option of this Heritage Council playing a central role in helping local communities to implement natural resource management initiatives. 	<p>The Australian Heritage Commission has developed draft guidelines to assist developers, researchers, cultural heritage professionals and other land users in dealing with issues relating to the identification, management and use of Indigenous heritage places.</p> <p>The Commonwealth commissioned a review into the <i>Aboriginal and Torres Strait Islander Heritage Protection Act 1984</i> (Evatt 1996).</p>	<p>Aboriginal cultural sites are registered and protected under the Sacred Sites Act, though the effectiveness of protection has been questioned by Traditional Owners.</p>	<p>Draft heritage bill currently before parliament.</p>



1995: Commonwealth coastal policy: *Living on the Coast*

The *Living on the Coast – Commonwealth Coastal Policy*, launched in May 1995, was developed largely in response to recommendations made in the Resource Assessment Commission's 1993 *Coastal Zone Inquiry Final Report*. With respect to Indigenous interests, the policy document *Living on the Coast* stated:

Aboriginal and Torres Strait Islander peoples have a special relationship with and interest in coastal lands and waters and their resources. About half of the Aboriginal and Torres Strait Islander population live near the coast; they have a particular association with the land and sea based on ownership, common law rights and interests, cultural affiliation, historic connection and, in some cases, dependence on the coast and its resources for their livelihood. The Commonwealth acknowledges and will take into account Aboriginal and Torres Strait Islander interests in the coastal zone on a wide range of issues, such as land and marine resource management, cultural heritage and protection of heritage sites.

The underlying concern of Australia's Indigenous peoples in relation to coastal management is that their traditional and cultural rights and interests are not adequately recognised in management arrangements.

As a matter of social justice, Aboriginal and Torres Strait Islander peoples should be recognised as participants in the coastal management process, and they should be able to derive social, cultural and economic benefit from the use of coastal environments in which they have an interest.

The Commonwealth Coastal Policy committed the Australian Government to the following initiatives relating to Indigenous coastal and marine interests:

1. *The Commonwealth Government will support the development and implementation of an Aboriginal and Torres Strait Islander Fisheries Strategy by the Ministerial Council on Forestry, Fisheries and Aquaculture in consultation with Indigenous communities and the Aboriginal and Torres Strait Islander Commission*
2. *The Commonwealth Government will support an Aboriginal and Torres Strait Islander Coastal Reference Group⁵ to provide to the Commonwealth, through the National*

Coastal Advisory Committee, on the development and implementation of initiatives to involve Indigenous peoples in coastal resources

3. *An Indigenous Communities Coastal Management component will be established under the CoastCare program to encourage Aboriginal and Torres Strait Islander communities to undertake projects to record and protect cultural heritage sites in the coastal zone, to develop coastal management strategies for land and sea under their control, and to participate in the development of strategies for areas in which they have an interest*
4. *The above initiatives will be used to strengthen existing programs such as the Contract Employment Program for Aboriginal in Natural and Cultural Resource Management and other 'community ranger' programs*
5. *The Commonwealth Government will promote the appointment of Indigenous people to boards and authorities concerned with environmental and resource management affecting the coastal zone. The boards and authorities will also be required to take account of Indigenous interests in developing their policies and programs*
6. *The Commonwealth Government will encourage, through the Australian and New Zealand Environment and Conservation Council, the development of management arrangements by other spheres of government that ensure substantive participation by Aboriginal and Torres Strait Islander peoples in the management of coastal resources, including joint management of conservation areas.*

Under the auspices of the Commonwealth Coastal Policy, the then Department of Environment, Sports and Territories commissioned a consultancy report on the statutory recognition of Indigenous fishing rights in Commonwealth, State and Territory legislation, with comparative information from international jurisdictions, treaties and conventions (Sutherland 1996).



1995: State of the Marine Environment Report: *Our Sea, Our Future*

Our Sea, Our Future (Zann 1995) was compiled under the auspices of the Australian Government's Ocean Rescue 2000 program of the then Department of Environment, Sport and Territories. This State of the Marine Environment Report was the first comprehensive scientific description of Australia's marine environment and contributed to the overall national *State of the Environment Report*. The State of the Marine Environment Report included a section summarising the importance of the marine environment to Australia's Indigenous peoples, which includes the following:

Coastal Aboriginal communities

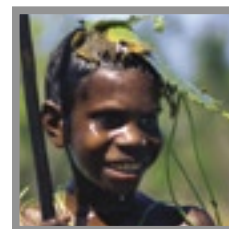
The coastal Aboriginal peoples have been users and custodians of Australia's marine environment for 40,000 to 50,000 years. For coastal communities 'saltwater country' was, and in many communities still remains, an indistinguishable part of the clan estate and culture. Aboriginal shell middens as old as the present coastline (around 5,000 years) are found in many coastal areas around Australia.

Major issues and concerns of coastal Aboriginal peoples today centre around their dispossession from their traditional land / sea estates; the threats, desecration and injury to sites of cultural significance; the loss of ancient fishing and hunting rights; their lack of commercial fishing opportunities; and their general lack of participation in coastal environmental planning and management.

1997: Review of Management of Commonwealth Fisheries

In June 1997 the House of Representatives Standing Committee on Primary Industries, Resources and Rural and Regional Affairs published its review of Commonwealth managed fisheries: *Managing Commonwealth Fisheries: The Last Frontier*. The review made no reference to potential Indigenous interests in south-east Commonwealth fisheries, but did refer to Indigenous interests in Torres Strait and the northern prawn trawl fishery in the Northern Territory. While the review is complimentary about the Australian Fisheries Management Authority's role in involving Indigenous people in fisheries management in Torres Strait, a recommendation was made to enhance Indigenous involvement in the management of Commonwealth fisheries elsewhere:

The Committee recommends that the Australian Fisheries Management Authority involve traditional fishers in the management of Commonwealth fisheries where they are legitimate stakeholders, in line with the broadening representation occurring in the management environment. Where appropriate, this should involve representation on management advisory committees, either as full members or as observers.



1997: National Aboriginal and Torres Strait Islander Rural Industry Strategy

In 1997 the National Aboriginal and Torres Strait Islander Rural Industry Strategy (NATSIRIS) was announced as a joint commitment by the Minister for Agriculture, Fisheries and Forestry, and the Minister for Aboriginal Affairs. The Strategy contained many explicit commitments relating to Indigenous fisheries issues, including:

- Subsistence fishing
- Codes of practice
- Means for increasing Indigenous participation in specific industries
- Reservation and buy-back of licences
- Market opportunities
- Development of infrastructure.

Smyth (2000) reported that by early that year, neither Agriculture, Fisheries and Forestry – Australia (AFFA) nor ATSIC had committed any funding to implementing the fishery components of the Strategy.

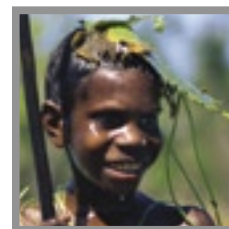
A more recent review of Indigenous access to programs of AFFA (Resource Policy and Management 2001) reported that of the 83 recommendations contained within the Strategy, only 34 had been acted upon by AFFA staff. However, the review noted that the only aspect of the Strategy for which AFFA could demonstrate ‘an overall and consistent response’ was in fisheries management. In apparent contradiction of this assessment, the review reports the view of ‘a respondent in the Cairns region’, who stated that, following initial progress in 1998, the Indigenous Fisheries Strategy was suddenly cancelled and that further progress on Indigenous fisheries would be through NATSIRIS, but that neither AFFA nor ATSIC had done so.

An audit undertaken by Resource Policy and Management (2001) of actions taken against specific Indigenous fisheries components of NATSIRIS is provided in Table 16. The audit identifies the jurisdictional restraints on an Australian Government agency such as AFFA in implementing reform in inshore fisheries policies and programs that are largely administered by state and territory government agencies.



Table 16: National Aboriginal and Torres Strait Islander Rural Industry Strategy Audit of Actions

The related action recommended in the National Aboriginal and Torres Strait Islander Rural Industry Strategy	Relevant AFFA program or service delivery	Other organisations involved	Comment – potential for further AFFA involvement
Marine fishing 2.1 Remove barriers to Indigenous groups practising subsistence fishing.	AFFA has completed a report in response to National Competition Council (NCC) that addresses removing impediments to fishery management. There is no AFMA program or service delivery that would impede Indigenous involvement in fisheries. AFFA did fund a national study on Indigenous fisheries that looked at individual states and the Northern Territory.	The states have the major direct role in managing Indigenous fishing interests as they are mostly within the three mile zone.	There is a continuing role for AFFA through supporting research and the development of policy initiatives to support the commercial aspects of Indigenous fisheries.
2.2 Encourage codes of practice by mainstream fishing enterprises, which include return of by-catch to traditional owners.	Some individual commercial fishers do give bycatch to Indigenous communities when working in waters that are in close enough proximity to make it possible. However, reducing bycatch is a major issue. The object of good fishing technology is to develop methods of reducing bycatch through mechanisms such as installing turtle bypass in nets. Any attempt to institutionalise distribution of bycatch may be counter-productive.	States and the Northern Territory Government.	AFFA is involved in supporting research and policy in reducing bycatch to promote sustainable fisheries with minimum impact on non-target species.
2.3 Assist the Torres Strait Islander Regional Authority in identifying means for increasing Indigenous participation in the prawn trawling industry.	The Fisheries Resources Research Fund has the capacity to promote research into sustainable harvesting of the three main species: Spanish mackerel, prawns and rock lobster.	This work would be done in cooperation with the Government of Papua New Guinea and the Queensland Government.	If there is interest from the Torres Strait Islands then AFFA would be in a good position to develop the most appropriate licensing arrangements.
2.4 Encourage extension of preferential licensing to Indigenous people for collection of abalone, trochus, beche-de-mer and mud crabs in appropriate locations.	These are state and Northern Territory responsibilities because they are typically within the three mile limit.	States and Northern Territory Government.	



The related action recommended in the RIS	Relevant AFFA program or service delivery	Other orgs. involved	Comment – potential for further AFFA involvement
2.5 Support reservation and buy-back of fishing licenses where Aboriginal and Torres Strait Islander people have been excluded from the local commercial fishing industry.	This is a state and Northern Territory matter.		There is the potential for AFFA to assist with coordinating or assisting with developing the most appropriate schemes, particularly through its role on the Ministerial Council on Fisheries, Forestry and Aquaculture.
2.6 Assess the market opportunities for increased production and value-adding by Indigenous communities in relation to abalone, trochus, beche-de-mer, shark fins, rock lobster and mud crabs.	This is a state and Northern Territory matter.		As above.
2.7 Provide assistance to Indigenous communities in establishing infrastructure for harvesting, storage, processing and transport of fishery products within the context of an enterprise plan. processing and transport of fishery products within the context of an enterprise plan.			Fresh water fishing
2.8 Assist Indigenous communities in gaining access to inland fishery resources for community use.	Fresh water fishing is primarily a state and Northern Territory issue. However, 50% of the cost of the National Recreational Fishing Survey is being funded by AFFA from the Natural Heritage Trust Fisheries Action Program.		
2.9 Support initiatives to restock inland waterways for subsequent sustainable harvesting by Indigenous communities.	This is a state and Northern Territory matter.		Aquaculture
2.10 Recognise the interests of Indigenous communities within the National Aquaculture Strategy.	AFFA has funded the National Framework for Aboriginal Aquaculture Development.		
2.11 Provide technical support to Indigenous communities wishing to plan for and establish aquaculture enterprises for community food supplies or for external sales.			



Subsequent to this review, AFFA's Executive Leadership Team agreed to a strategy promoting equitable access by Indigenous clients to AFFA's portfolio of programs and services. This strategy has been developed into four themes:

- On-the-Ground or Specific Projects
- Program and Service Delivery
- Communication
- Internal AFFA Policies.

These themes form the basis of the AFFA Indigenous Strategy Steering Committee's Action Plan. This Action Plan has three prime objectives:

1. An increase in the number of Indigenous clients aware of and, where applicable, accessing AFFA programs and services
2. AFFA working cooperatively with Indigenous groups through on-the-ground actions
3. Within the context of the overall workplace diversity strategy for AFFA, improved awareness of staff of issues relevant to Indigenous people.

1998: Australia's Oceans Policy

The following extract from the National Oceans Office website (www.oceans.gov.au) outlines the recognition of Indigenous interests, and mechanisms for Indigenous participation, in Australia's Oceans Policy (Commonwealth of Australia 1998).

ABORIGINAL AND TORRES STRAIT ISLANDER PEOPLES' RESPONSIBILITIES AND INTERESTS:

THE CHALLENGE

To involve Aboriginal and Torres Strait Islander peoples in the use, conservation and management of Australia's marine jurisdictions.

BACKGROUND

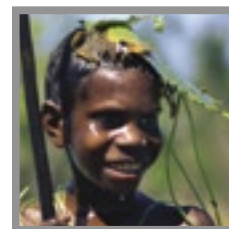
The social, cultural and economic relationships of many Aboriginal and Torres Strait Islander peoples with the ocean environment mean that they have strong interests in the use, conservation and management of Australia's oceans.

Access to, and use of, marine resources are essential to the social, cultural and economic well being of coastal Aboriginal and Torres Strait Islander communities.

Among the concerns of coastal Aboriginal and Torres Strait Islander peoples are equitable and secure access to resources; direct involvement in resource planning, management and allocation processes and decisions; formal recognition of traditional patterns of resource use and access; traditional management practices and customary law and conservation of the oceans and its resources; and access to genetic resources, intellectual property and ownership.

Aboriginal and Torres Strait Islander peoples are concerned with the conservation of the coasts and the oceans for several reasons, including:

- a responsibility to look after and maintain areas with which they have a traditional affiliation and custodianship
- an economic reliance on the resources of the oceans
- the need for continued access to vulnerable species such as dugong and sea turtles.



RESPONSE

Awareness and understanding

The Government will:

- promote understanding of the social, cultural and economic importance of the ocean environment and its resources to coastal Aboriginal and Torres Strait Islander peoples and their role in its conservation.

Use of the ocean environment

The Government will continue to:

- implement the National Aboriginal and Torres Strait Islander Rural Industry Strategy as it is relevant to ocean-based industries, and the National Aboriginal and Torres Strait Islander Tourism Industry Strategy as it is relevant to marine tourism
- remove barriers to Indigenous groups practising subsistence fishing on a sustainable yield basis consistent with conservation of species
- provide increased opportunities for Aboriginal and Torres Strait Islander peoples to be involved in commercial fishing.

Conservation of the ocean environment and its resources

The Government will continue to:

- provide guidelines for Indigenous communities in the preparation of plans for sustainable enterprise development, including use of information technologies
- provide support for initiatives that will promote and demonstrate ecologically sustainable and multiple use of sea resources by Indigenous communities
- provide assistance to Indigenous communities in documenting traditional resource management practices that can contribute to contemporary best practices, including knowledge that relates to management of biological diversity, and promote equitable sharing of benefits derived from Indigenous knowledge and practices

- address the threats of impacts posed by activities on fishery resources and marine sites valued by Indigenous communities
- implement the National Aboriginal and Torres Strait Islander Cultural Industry Strategy as it is applicable to the natural and cultural heritage values of Australia's marine areas.

Management of the ocean environment and its resources

The Government will:

- Provide for Aboriginal and Torres Strait Islander representation on the National Oceans Advisory Group and on Regional Marine Plan Steering Committees
- Provide for Aboriginal and Torres Strait Islander participation at the National Oceans Forum
- Consult with Indigenous groups on the requirements for establishing a national consultative mechanism, such as an annual forum
- Continue to develop and implement principles and guidelines for co-management of relevant marine areas and resources
- Continue to facilitate the increased involvement of Aboriginal and Torres Strait Islander peoples in monitoring, surveillance and enforcement activities
- Continue to promote the role of all spheres of government in recognising and developing the participation of Aboriginal and Torres Strait Islander peoples in the management of the ocean environment and its resources
- Continue to actively foster the development of agreements between Aboriginal and Torres Strait Islander peoples, governments and industry groups involved in the oceans



- Continue to promote capacity building, education and training within Aboriginal and Torres Strait Islander communities, to provide a sound base for traditional use and new commercial activities in marine resource use, management and marketing, and to support direct participation in regional planning and management activities
- Continue to improve opportunities and appropriate support for Aboriginal and Torres Strait Islander peoples to become involved in the management of ocean areas as appropriate.

NATURAL AND CULTURAL HERITAGE

THE CHALLENGE

To identify, conserve, promote and transmit to future generations the natural and cultural heritage of Australia's marine areas.

BACKGROUND

Our oceans are national heritage assets in community ownership. Australia's coastal zone has significant natural, cultural and maritime heritage values. This places considerable responsibility on all Australians to ensure these assets and their values are managed to conserve their significance, both now and in the future.

Our understanding of marine heritage values and their vulnerability is poor. These values must be identified and included in the conservation planning and management of ocean resources. Failure may result in irreversible damage to Australia's marine heritage.

Our marine heritage includes natural, Indigenous and historical values, including islands and reefs, Aboriginal fish traps and coastal middens, ship-wrecks, lighthouses and immigration facilities. Several of Australia's World Heritage Areas, including the Great Barrier Reef, Shark Bay and the Lord Howe Island Group are listed entirely or in part because of their outstanding marine heritage values.

Non-government groups play a critical role in promoting broader community awareness of, and participation in, heritage identification and conservation. Many groups

are developing community information and education programmes and fostering cooperation with industry.

This stewardship will be promoted and reinforced at all levels of government and in the community. Responsibility for ocean health rests with the entire community. A critical part of future action will be to broaden acceptance of our duty of care for our marine heritage.

Australia's marine heritage also has an important and potentially increasing economic value, particularly for the expanding marine tourism industry. Coastal sites of natural and cultural significance are often a focus for tourism use. However as a common good these heritage places are liable to be degraded and their values lost through misuse and unplanned access by tourists. It is essential to put in place precautionary strategies to protect these heritage places from the impact of tourism activities, while accommodating reasonable commercial development.

RESPONSE

Identification and research

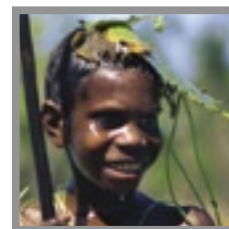
The Government will:

- coordinate government efforts to list and conserve marine heritage through the National Heritage Places Strategy and associated Natural Heritage Trust and State and Territory programmes
- through the Regional Marine Planning process, place greater emphasis on systematically identifying heritage values in the marine environment and ensure that such values are recognised and conserved through programmes protecting the marine environment from land-based activities.

Education and training

The Government will:

- continue to ensure that relevant curricula contain information on heritage aspects of the marine environment, including the interests of coastal Indigenous communities



- continue to improve marine heritage identification and research skills through government support of professional development and tertiary courses
- develop an effective training package for use by government, non-government groups, industry and community groups whose activities may affect heritage values, or who need skills to manage those values.

Stewardship

The Government will:

- provide support for information and education and community, industry and academic participation in the identification and protection of marine heritage, marine monitoring, rehabilitation and conservation programmes relating to marine natural and cultural heritage.

National Estate and World Heritage

The Government will:

- continue with cooperative National Estate and World Heritage processes for ocean areas, consistent with the Council of Australian Governments' review of environmental roles and responsibilities and the development of a National Heritage Places Strategy.

The Oceans Policy also contains a commitment to contribute \$1.8 million to the National Recreational Fishing Survey to 'help the better management of both the recreational and commercial fishing sectors'. To aid this work a survey is being undertaken on behalf of the Commonwealth by NSW Fisheries, including a survey on Indigenous fishing. In northern Australia, the survey is being undertaken by regular face-to-face interviews with Indigenous fishers. In southern Australia, the survey is being undertaken via telephone interviews, including some interviews with Indigenous fishers. The results of the survey are expected by the end of 2001.

The Oceans Policy also contains a commitment for the participation of Indigenous peoples in the implementation of the policy:

The Government will:

- Continue to facilitate Indigenous peoples' participation in resource assessment, allocation and management
- Continue to foster the use of traditional knowledge and resource use data in management
- Continue to implement, in conjunction with Aboriginal and Torres Strait Islander groups, cooperative programmes in marine protected area development and ecologically sustainable traditional and commercial use of marine fauna and flora.



1999: Strategic Plan of Action for the National Representative System of Marine Protected Areas

This guide for action by Australian governments (Commonwealth of Australia 1999) was prepared by the Australian and New Zealand Environment and Conservation Council (now disbanded), and includes an appendix containing 'Guidelines For Establishing the National Representative System of Marine Protected Areas'.

The main document contains very little recognition of Indigenous issues in developing the National Representative System of Marine Protected Areas (NRSMPA). The sole reference to Indigenous interests is that 'community groups, including Indigenous and non-government groups' should be included as stakeholders in the consultation process. However, the attached 'Guidelines' state that one of the goals of the NRSMPA is providing for the recreational, aesthetic and cultural needs of Indigenous and non-Indigenous people. One of the principles for developing the NRSMPA is that:

The interests of Australia's Indigenous people should be recognised and incorporated in decision making.

The Guidelines also recommend that the following questions should be considered in the selection of a site for a marine protected area:

Does the site:

- *Have traditional usage and/or current economic value?*
- *Contain Indigenous cultural values?*
- *Have native title considerations?*

These Guidelines resulted in part from a workshop, 'Developing Australia's Representative System of Marine Protected Areas', convened by the Australian Nature Conservation Agency (now Environment Australia) in 1996 (Thackway 1996). During the workshop more detailed consideration was given to issues relating to Indigenous rights and interests in establishing marine protected areas than subsequently appeared in the

Guidelines. In a paper delivered at the workshop, Smyth (1996) proposed the following guidelines for establishing marine protected areas (MPAs) in Indigenous environments:

1. *Assume that substantive Indigenous interests exist in all proposed MPAs around coastal Australia.*
2. *Commence negotiations and consultations with relevant Indigenous communities and organisations at the earliest possible stage in the consideration of a new MPA. Such negotiations should address both the principle of establishing the MPA and the ongoing opportunities for Indigenous involvement in planning and management.*
3. *Recognise the importance of long-term economic opportunities for coastal Indigenous communities associated with the MPA.*
4. *Explicitly recognise Indigenous peoples' interests in all enabling legislation associated with the MPA. Legislative recognition should include access to subsistence resources and involvement in MPA management at all levels, including the governing board or authority.*
5. *Appointment and resourcing of specialist staff to facilitate ongoing liaison with Indigenous communities, and to assist with the implementation of special management arrangements involving Indigenous peoples.*



2000: Fisheries Research and Development Corporation Research and Development Plan 2000 to 2005

The Fisheries Research and Development Corporation (FRDC) is responsible for coordinating and funding fisheries research and development throughout Australia. Its annual budget is approximately A\$17 million⁶, of which 25% comes from a levy on commercial fishing, and the remaining 75% comes from direct Commonwealth Government grant.

The FRDC's 2000–2005 Research and Development Plan, *Investing in Tomorrow's Fish*, recognises that there are three distinct fisheries in Australia: 'commercial', 'recreational' and 'traditional'. The traditional sector is described as including enterprises and individuals associated with fisheries resources from which Aboriginal and Torres Strait Islander people derive products in accordance with their traditions.

The following extracts from the Research and Development Plan describe the traditional sector and its impact on fishery resources:

Traditional Sector

Aboriginal and Torres Strait Islander people have developed a close, interdependent relationship with the land, water and living resources of Australia through traditional fishing practices over tens of thousands of years. That relationship includes customary rights and responsibilities of particular Indigenous groups to particular areas of land, water and resources. Some of these customary rights and responsibilities are now recognised in Australian common law and through native title legislation.

Commercialisation of fisheries and expansion of recreational fishing have affected some traditional fishing. For example, commercialisation of intertidal mollusks in the 1970s, on top of their heavy harvesting by recreational gatherers in some areas, led to restrictions being imposed on what had been an Aboriginal subsistence fishery for thousands of years. Expensive commercial licences and strict recreational bag limits have made it difficult for some Aboriginal fishers to continue their traditional fishing.

⁶ Based on figures in the FRDC Annual Report for 1999–2000 www.frdc.com.au

Social factors relating to the traditional sector

Many Aboriginal and Torres Strait Islander people share traditional marine and freshwater foods among extended families. This practice helps to continue the customary relationship between Indigenous people and their environments, and to strengthen their ties of kinship.

Traditional fishing is increasingly being addressed in fisheries management plans. Fisheries legislation provides varying recognition of native title fishing rights, in many cases without specifying what those rights may be.

In some Australian jurisdictions, Aboriginal and Torres Strait Islander fishers are exempt from fisheries regulations when they fish according to customary laws and traditions. These exemptions typically apply only to subsistence fishing.

Since the 1992 decision by the High Court of Australia in the Mabo Case, which recognised the existence of native title in Australia, there has been increasing impetus for implementation of Indigenous access to fisheries. The Native Title Act 1993 provides for the possibility of native title in the sea, while confirming government ownership of water and minerals and restricting native title rights to non-commercial, subsistence use of living resources. The courts have decided that non-exclusive right can be claimed over parts of the sea and that this right includes hunting living marine resources according to local customary laws and traditions.

Further, a 1999 High Court decision (the Yanner Decision) confirmed that Aboriginal and Torres Strait Islander people may claim a right under native title to hunt living resources according to local customary law. This decision has implications for recognition of Indigenous people's rights and interests in fisheries management.

Impacts of traditional fishing

The traditional sector has access to some species that the commercial and recreational sectors do not have: for example, turtles and dugongs. Collection of data on both target stocks and broader fisheries ecosystems involved in traditional fishing is less comprehensive than for the



commercial and recreational sectors; consequently, the impacts of the sector on both target stocks and broader fisheries ecosystems are the least understood.

As with recreational fishers, most traditional fishers have little knowledge of fisheries management. Some traditional fishers are increasing pressure on fisheries resources by using contemporary technologies such as powerboats.

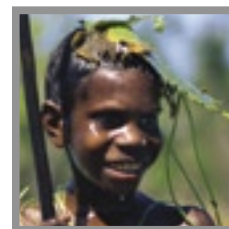
Aboriginal and Torres Strait Islander people are increasingly involved in fisheries management through consultative processes, employment as rangers and fisheries inspectors, involvement in research, and monitoring of activities of commercial fishers (including Indigenous commercial fishers). However, their involvement by and large has not matched that of the commercial and recreational fishing sectors.

Despite this acknowledgement of the 'traditional' fisheries sector, the FRDC Research and Development Plan makes little reference to this sector in FRDC's future funding programs. The four major funding programs are:

1. Natural Resources Sustainability
2. Industry Development
3. Human Capital Development
4. Management and Accountability.

Each of these programs is considered in the context of outcomes for Government Research and Development priorities, the AFFA portfolio, the Australian Seafood Industry Council and Recfish Australia. In this way, government, commercial and recreational fishing interests are considered in the development of each Research and Development funding program. However, there appears to be no structural consideration of Indigenous ('traditional' sector) outcomes for these Research and Development programs. This may reflect the current administrative and consultative structures in place within the FRDC.

Membership of the FRDC Board is by ministerial appointment on the advice of a selection committee made up of representatives of national fisheries organisations. In the absence of a national Indigenous fishery organisation, Indigenous fisheries interests are not represented on that selection committee.



2001: A National Aquaculture Development Strategy for Indigenous Communities in Australia

AFFA funded Fisheries Western Australia, in partnership with Makaira Pty Ltd, to undertake a study with the following objectives:

- To develop a national strategy and management framework for accelerating the involvement of Australia's Indigenous communities in aquaculture
- To recommend a strategic plan to increase the economic independence and food-production capabilities of Indigenous communities in the country through involvement in aquaculture.

The project was undertaken in response to strong expressions of interest in aquaculture from Indigenous communities around Australia. The report claims that the industry is 'culturally in harmony' with the lifestyles and skills of Indigenous people and often well suited for development in the isolated coastal and inland areas where many Indigenous communities are based. It also notes that many factors currently impede the participation of Aboriginal people in aquaculture and their aspirations to use the industry for economic advancement, employment opportunities and food production.

The study invited stakeholders to make submissions. Workshops were held in all states and territories and a draft report was circulated for comment before a final report was prepared (Lee and Nel 2001). The final report deals with Indigenous aquaculture opportunities and issues mainly at a national level, and recognises the need for the implementation of recommendations that will take planning to the levels of individuals and communities, with a high level of state and territory government involvement.

The report lays the foundation for further work needed to establish viable Indigenous aquaculture projects around Australia, and makes the following 28 recommendations, presented under six headings:

Industry Development

1. Establish a small and highly focused 'Aquaculture Steering Committee' to implement the recommendations provided in this study

2. Establish within ATSIC a small and specialised unit with significant aquaculture skills
3. Explore the options that exist to integrate development planning strategies for Indigenous aquaculture with planning for other complimentary activities in the region
4. Consider the establishment of a working group or committee comprising representatives of the state, ATSIC, regional councils and community members, to represent Indigenous aquaculture interests in each of the identified biogeographic regions
5. Contemplate the best means whereby one or more multi-species hatcheries could be established in each of the biogeographic regions identified in this study and the means whereby appropriate synergies could be developed between them and existing Commonwealth and state aquaculture agencies
6. Where appropriate, demonstration farms could be established in selected regions
7. Communicate to proponents the need for and encourage long-term commitments from individuals or communities interested in becoming involved in commercial aquaculture

Physical Factors and the Environment

8. For any proposed aquaculture project, ensure a thorough assessment is carried out of the selected site to assess its physical, biological and ecological features and evaluate the relevant economic and social factors
9. Ensure that, for any proposed project, culturally sensitive areas are not disturbed and due emphasis is placed on environmental management and sustainability
10. Explore the feasibility to use aquaculture to re-stock or enhance depleted fisheries and the means by which this practice could be most effectively established



Biotechnical Factors

11. For each of the biogeographic regions, identify species that may be suitable for Indigenous aquaculture and on which relevant research and development is taking place
12. In collaboration with existing Commonwealth, state and territory research institutions, establish a means of focusing as well as extending research and development efforts on the special requirements of Indigenous communities
13. Establish a means of translating the outcomes of research and development from national and regional institutions into practices that can be transferred to and realistically applied by Indigenous people to aquaculture projects

Commercial and Legal Factors

14. Establish a national business network to develop and maintain links between Indigenous people or communities involved in aquaculture and the commercial aquaculture industry
15. Develop a register of commercial institutions, organisations and individuals interested in becoming involved in the development of Indigenous aquaculture
16. Establish a clear and transparent process that actively solicits support from the public and relevant industries for Indigenous aquaculture to become major industry stakeholders
17. Encourage the formation of organisations that represent Indigenous communities with common interests in aquaculture development. Establish a working group within each organisation to expedite the identification of suitable aquaculture land that could be developed
18. In each biogeographic region, identify organisations and people who could act as mentors to communities interested in developing aquaculture
19. Develop a detailed document that identifies all organisations that might provide services,

programmes and funding for Indigenous aquaculture development initiatives and projects

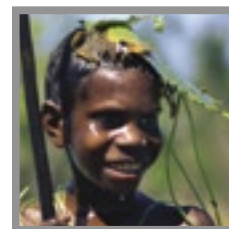
20. ATSIC should develop a flow chart that clearly illustrates its funding process and shows the relevant time lines for funding aquaculture projects
21. Through its regional offices and in its relevant brochures, ATSIC should make it known that it would give strong preference to funding aquaculture projects involving groups of individuals and communities
22. Document and review the decision-making and legislative processes currently in use by the Commonwealth, state and territory governments in respect of Indigenous aquaculture and suggest solutions where they might be needed
23. Encourage and foster co-operation, interactions and mutual trust between Indigenous communities, regional councils, ATSIC, all funding bodies, the private sector and all Commonwealth, state and territory regulatory bodies

Education and Training

24. Consider the establishment of a dedicated, nationally accredited Indigenous training course based on currently available and accredited National Seafood modules
25. Provide the necessary guidance for Indigenous people who wish to follow a career path in aquaculture, and prepare a document that clearly explains the training and education opportunities that exist, as well as some details about education and training requirements and opportunities
26. Develop links with TAFE Colleges, other relevant institutions and industry organisations that can provide skills-based training courses for Indigenous people and, where appropriate, provide traineeships to the people to attend the course
27. Develop a job-placement programme to place trained Indigenous people in commercial aquaculture projects

Social and Cultural factors

28. Prepare a document that provides an outline of how to do business and develop projects with Indigenous communities, with specific reference to aquaculture.



2000: ATSIC review of Indigenous commercial fisheries rights and interests

In 2000, ATSIC commissioned a review (Tsamenyi and Mfodwo 2000) of the recognition of Indigenous rights and interests in current commercial fisheries policy and management in Australia. The review includes a comparison with recent developments in New Zealand. It summarises the current status of Indigenous commercial fisheries in Australia, with reference to Commonwealth, state and territory legislation and policy, and in the context of emerging native title law in Australia. The review predates the recent High Court Croker Island (Yamirr) decision, but discusses the potential implications of that case. A major finding of the review was the need to place more attention on exploring and negotiating Indigenous commercial fisheries rights and interests, in contrast to the hitherto primary focus on addressing subsistence fishing interests.

The summary conclusions of the review are:

- *There is a need to supplement the current focus on customary or traditional fishing rights with a greater one on commercial fishing rights for Australia's Indigenous peoples*
- *The current legislative framework in Australia does not support Indigenous commercial fishing rights. The emerging debate on the negotiation of a treaty would seem to provide an opportunity to address Indigenous commercial fishing issues*
- *An enhanced access security regime for commercial fishers through the recognition of property rights may result in fisheries quota allocations. Recognition of Indigenous commercial fishing rights will therefore require consideration of compensation for Indigenous Australians who may be excluded from quota allocations*
- *In addressing Indigenous commercial fishing and related matters, Indigenous Australians will need to consider issues around traditional ownership versus historical association within their communities.*

2001–2003: National Recreational Fisheries Survey

See Section 5 above.

2001: National Objectives and Targets for Biodiversity Conservation

Prepared by the Natural Heritage Trust and Biodiversity Policy Branch of Environment Australia, the National Objectives and Targets for Biodiversity Conservation document sets objectives and targets for 10 priority outcomes which the Commonwealth, states and territories should pursue between now and 2005, consistent with the National Strategy for the Conservation of Australia's Biological Diversity, released in 1996. Of the 10 priority actions, number 8 is to 'Maintain and record Indigenous peoples' ethnobiological knowledge'. Table 17 outlines the objectives, targets and performance indicators.



Table 17: Indigenous targets and indicators for addressing Indigenous issues in biodiversity conservation

Objectives	Targets 2001–2005	Performance Indicators
Ensure Indigenous communities have access to resources to enable them to preserve their ethnobiological knowledge about biodiversity conservation.	<p>By 2002, all jurisdictions have, in cooperation with Indigenous peoples:</p> <ul style="list-style-type: none"> · established mechanisms to facilitate the intergenerational transfer of ethnobiological knowledge · identified high priority regions for ethnobiological research. <p>By 2005, in cooperation with Indigenous peoples, ethnobiological research has commenced in all priority regions.</p> <p>By 2003, all jurisdictions have developed mechanisms to ensure Indigenous communities can protect their interests in Indigenous peoples' ethnobiological knowledge and information.</p>	<p>Number of jurisdictions that have negotiated mechanisms with Indigenous people to facilitate the intergenerational transfer of ethnobiological knowledge.</p> <p>Number and percentage of high priority regions, by jurisdiction, in which ethnobiological research has commenced.</p> <p>Number of jurisdictions with programs to facilitate the intergenerational transfer of ethnobiological knowledge.</p> <p>Number of jurisdictions that have negotiated mechanisms with Indigenous people to protect their ethnobiological knowledge and information.</p>

2001–2003: Review of Commonwealth Fisheries Management

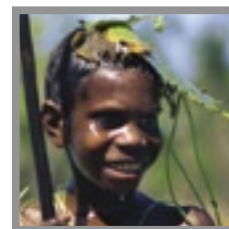
AFFA has recently published 'Looking to the Future – a Review of Commonwealth Fisheries Policy' (AFFA 2003). Advice from AFFA indicates that Indigenous involvement in the management of Commonwealth fisheries, other than in Torres Strait, has not been a major focus of the Review. However, the following extract from the Draft of Review of Commonwealth Fisheries Policy (Version 7 August 2001) indicates that Indigenous fisheries issues were addressed to some extent:

Submissions from Indigenous people to the review raised issues of Indigenous Fishing Rights under Native Title, access to fishery resources for traditional and commercial fishing, conservation of fishery resources including the

need to reduce discarding in commercial fisheries and the need for greater Indigenous participation in current fisheries management arrangements.

The new Commonwealth Fisheries Policy acknowledges that:

There are now five sectors in Australia – commercial, recreational, charter, aquaculture and Indigenous fishing – that require access to fishery resources, irrespective of whether the Commonwealth, or state or territory governments manage the resources. In Commonwealth-managed fisheries no established mechanism exists for allocating access to fisheries resources between sectors. This has increasingly led to disputes between the sectors about who has the most right to access certain fish stocks ... As competition for access to certain resources increases, this gap in Commonwealth fisheries policy has become increasingly obvious.



In order to address this policy gap, Looking to the Future makes the following commitment (Outcome 22):

The Commonwealth Government will develop and implement an agreed framework, in consultation with the states, Northern Territory and stakeholders, for the management of resource allocation between the sectors that utilize Commonwealth-managed fisheries resources.

Specifically addressing Indigenous fishery interests, the policy notes that:

Although traditional Indigenous fishing is not significant in most Commonwealth-managed fisheries, management arrangements must consider it when developing Commonwealth fisheries management plans. Traditional Indigenous fishing is important to many Indigenous Communities in Australia for cultural, community and subsistence purposes. The Government's aim is to ensure the long-term sustainability of Indigenous traditional fishing.

Many Indigenous communities want to engage in commercial fishing and aquaculture enterprises to support development within their communities. The Government's aim is to ensure that commercial Indigenous fishing and aquaculture operates under the same rules applying to other participants in these sectors.

A number of strategies have been initiated to assist Aboriginal and Torres Strait Islanders to become involved in the decision making processes for relevant Commonwealth-managed fisheries (those affecting traditional Indigenous fishing), and to foster Indigenous participation in commercial Indigenous fisheries and aquaculture production. They include:

- AFMA support for the appointment of Indigenous members to relevant MACs*
- a collaborative proposal – involving the Aboriginal and Torres Strait Islander Commission (ATSIC), the Australian Seafood Industry Council (ASIC) and AFFA – to develop Indigenous commercial fishing interests*
- inclusion of a representative of the Torres Strait Regional Authority on the Torres Strait Protected Zone Joint Authority*
- the National Aquaculture Development Strategy for Indigenous Communities*
- the establishment of an Indigenous Aquaculture Unit in AFFA to assist with the implementation of the Indigenous aquaculture strategy.*

The Policy contains the following two commitments specifically addressing Indigenous fisheries issues:

Outcome 25

AFFA and AFMA, with ATSIC and other Indigenous representatives, will explore means of ensuring that traditional Indigenous fishing is more effectively incorporated into Commonwealth fisheries management.

Outcome 26

The Commonwealth Government will examine opportunities for the involvement of Indigenous people in commercial Indigenous fishing and aquaculture and work with ATSIC on the development of an Aboriginal and Torres Strait Islander fishing strategy



Part D: Living on Saltwater Country

Conclusions

By Dermot Smyth
Smyth and Bahrtd Consultants

A report for the Northern Indigenous
Land and Sea Management Alliance



Implications for Regional Marine Planning in Northern Australia

The review of literature in the foregoing reports focuses on interrelated themes relating to the Northern Planning Area:

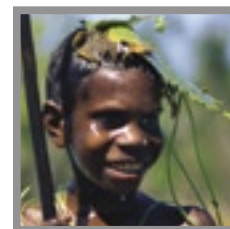
- 1. Who are the saltwater peoples?** Descriptions of the history, culture, distribution, economy and aspirations of Aboriginal societies associated with the Northern Planning Area
- 2. What is saltwater country?** Descriptions of the relationships between Indigenous societies and the coastal and marine environments lying within the Northern Planning Area, including use, rights, obligations and management.

This concluding section explores the implications of these themes for regional marine planning and examines options for addressing the issues raised in the context of existing marine management and resource use in the Northern Planning Area. The discussion draws on material from Parts A, B and C, and introduces some examples and ideas drawn from elsewhere in Australia.

Who are the saltwater peoples?

The reports show that Aboriginal societies associated with the Planning Area have the following characteristics:

- They comprise the majority of the population regionally and locally, with the exception of a few mining and fishing towns
- They are responsible for the governance of vast, remote areas of coastline
- They comprise a diversity of language and clan groups with continuing customary management systems, living in a developing network of large coastal communities and smaller outstations
- They are dependent on local marine resources, as part of mixed domestic economies comprising resource harvesting and consumption, private and public sector employment, and other periodic payments
- The cash component of their domestic economies shows a relatively high and growing dependence on government-funded employment schemes, specifically the Community Development Employment Program, and relatively low and decreasing rates of employment in the private sector
- They have strong social and cultural attachments to country, family and broader kinship networks, resulting in relatively low rates of migration in or out of the region, particularly in comparison to the mainly transient non-Indigenous population
- Their growing populations are characterised by higher birth rates and lower life expectancy than the general Australian community
- Attendance at schools, and education outcomes, are very much lower than in the general Australian community
- Their remoteness from major population centres means that all transaction costs are high, and there are few industries accessible to them for future employment and development – the exceptions are commercial fisheries, tourism (including recreational fishing) and mining (in some locations).



Quite apart from issues relating to Indigenous rights and obligations, these social indicators have major implications for public policy. If these economically disadvantaged, growing and remotely located Indigenous populations are to be supported in their desire to reduce welfare dependency, it is clear that their engagement with the limited range of remotely located industries must be increased. With respect to marine planning and management, those industries are limited to commercial fisheries and marine tourism.

Currently, the main leverage Aboriginal people have to engage in or benefit from these industries is through their control of land access. Where no such leverage exists, such as in most commercial fishing enterprises, Aboriginal engagement is minimal. While various Australian Government initiatives seek to foster Indigenous participation in existing marine management arrangements (such as encouraging Indigenous membership of fisheries Management Advisory Committees) and facilitating Indigenous participation in commercial fishing, there have been no government initiatives to restructure marine management on the basis of longstanding Indigenous governance of saltwater country. The following quote from the *Looking to the Future – A Review of Commonwealth Fisheries Policy* (AFFA 2003), for example, makes it clear that there should be no preferential Indigenous access to, or benefit from, the exploitation of marine resources:

The Government's aim is to ensure that the commercial Indigenous fishing and aquaculture operates under the same rules applying to other participants in these sectors.

This policy, presumably based on an ideal of nationwide equality of opportunity for all Australians, ignores the social and economic realities of remotely located Indigenous societies, who have non-transferable connections to country and kin, and whose domestic economies are a hybrid of direct marine resource consumption and paid employment. As a result, most people in these societies are not part of a nationwide Australian labour market, to which concepts of national equality of opportunity apply. Employment and economic development options for remote Indigenous societies are limited by social and cultural constraints that need to be recognised in marine resource allocation and environmental planning.

If governments wish to support Indigenous aspirations to move away from dependence on public welfare, there is an urgent need to revisit existing policy approaches to economic use and allocation of marine resources at a regional and local scale. Existing NT fisheries policy, which provides for Aboriginal Coastal Licences, is a step in this direction. However, these licences limit the sale of catch to within the local community to private individuals (not commercial outlets); they also do not permit the harvest and sale of the major commercial species, and they do not limit the access of existing commercial fishers to marine resources adjacent to Indigenous communities. Conditions applying to Aboriginal Coastal Licences are currently under review by the Northern Territory Department of Business, Industry and Resource Development. This is an example of how the regional marine planning process can contribute to territory and state planning processes already under way, with the potential to achieve best practice policy and management across the Planning Area.

A more significant step has been taken in Torres Strait, where specific commercial fisheries (for example, trochus, pearl shell and crayfish) are reserved for Torres Strait Islanders only. The social, cultural and economic factors that have led to this policy in Torres Strait are similar to those existing throughout the Northern Planning Area. A significant additional factor is the Torres Strait Treaty, which commits Australia and Papua New Guinea to manage the marine resources of Torres Strait to protect the 'life ways' of the traditional inhabitants. While marine management arrangements in Torres Strait do not address aspirations by Torres Strait Islanders for full autonomy in marine resource governance (TSRA & ICC 1998), they do provide for priority of access to subsistence marine resources by Torres Strait Islanders, and exclusive access to some commercial fisheries. In Torres Strait there are also informal agreements in place between Islanders and commercial fishers to respect Islanders' exclusive access to marine resources on 'home reefs' adjacent to particular islands.



While the Torres Strait Treaty does not apply elsewhere in the Northern Planning Area, the regional marine planning process presents an opportunity to extend the management approaches applying in Torres Strait to other areas with similar Indigenous social, cultural and economic dependence on marine environments and resources. The aim should be to achieve best practice and equity across the Planning Area.

In the north of Western Australia, arrangements are in place to provide preferential access to the commercial mud crab, beche-de-mer and trochus fisheries to local Aboriginal fishers, in recognition of the limited economic opportunities available to remote communities and their dependence on marine resources. These provisions, introduced in 1989 via Aboriginal Community Commercial Fishing Licences, are recommended to be continued as part of the Western Australian Draft Aboriginal Fishing Strategy, *Aboriginal Fishing Strategy – Recognising the Past, Fishing for the Future* (Franklyn 2003).

What is saltwater country?

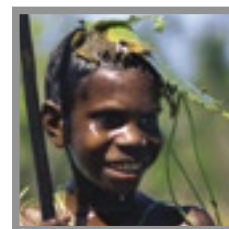
The reports provide an insight into the complexity of relationships between the Indigenous peoples of the region and the biological, physical and cultural environments that constitute saltwater country. Saltwater country is not just another term for the sea or the marine environment; rather, it is English shorthand for the interrelationship of beliefs, rights, obligations, economic dependence and identity that indivisibly link particular groups of people to particular areas of land and sea. The concept of saltwater country not only places a mantle of social and cultural values over the sea, it recognises that biological, physical and cultural systems of land and sea are inseparably linked and co-dependent and should be managed holistically.

Transcripts from various land and sea claim processes within the Planning Area, supported by academic studies quoted in the literature reviews, highlight the following characteristics of the relationship between Traditional Owners and their saltwater country that are particularly relevant to planning and management:

- Customary laws impose obligations and protocols on access to marine areas and use of marine resources by Traditional Owners, other Aboriginal people and outsiders
- These customary laws and protocols are aimed at maintaining respect for local customary authority, achieving sustainability of resource use and protecting saltwater country from pollution
- Coastal land and sea areas are imbued with a mosaic of cultural sites, Dreaming tracks and creation stories that bind local people to their country and maintain relationships between neighbouring and distant clans and language groups.

These realities of culture and customary law present a very significant challenge to the existing marine management paradigm of an open common, accessible to all Australians under unfettered government authority. There are at least three ways to respond to this challenge:

1. Continue to test the interpretation of customary law through native title hearings and other legal processes, and refine marine management on the basis of court decisions as they occur



2. Develop strategies and actions that recognise Indigenous peoples as legitimate stakeholders, with access, use and management rights that are at least equal to those of other marine stakeholders
3. Establish a management framework that recognises, respects and incorporates the long-established local customary governance of saltwater country through Indigenous laws, protocols and practices.

These are not mutually exclusive options. Options one and two have been the preferred tools for resolving these issues during the 1980s and 1990s, while option three has not been explored by Australian marine policy-makers, other than to a limited extent in Torres Strait. Successful land claims and land transfers have resulted in the return of most of the coastline of the Planning Area to Aboriginal ownership and management. This in turn has provided some leverage in the control of or participation in those commercial fisheries requiring an adjacent land base (for example, for aquaculture or for transporting catches). Strategic initiatives, such as the Commonwealth-initiated Aboriginal and Torres Strait Islander Fisheries Strategy in the late 1990s (Smyth 1999), have resulted in increased awareness of concerns and aspirations of Indigenous communities about fisheries and marine management issues, as well as improving consultative arrangements in some instances. However, it is clear that these approaches have not resulted in a significantly increased role for Indigenous peoples in fisheries management, increased their involvement in commercial fisheries, or decreased conflict between Indigenous and commercial fisheries sectors

A major conclusion from the information contained in the literature reviews is that the third option (recognition of local Indigenous saltwater governance) must be explored if regional marine planning is to deliver the economic, cultural, social and stewardship goals explicit and implicit in Australia's Oceans Policy. The *Draft South-east Regional Marine Plan* (National Oceans Office 2003a) provides a possible mechanism to explore how option three may be implemented at a local scale, which in turn can form the basis for modified regional marine management. The *Draft South-east Regional Marine Plan* provides for the development of pilot 'Sea Country

Management Plans' which will outline the management aspirations of two Indigenous communities for their nominated areas of sea country. A similar approach in the Northern Planning Area could provide a vehicle to examine where the synergies and potential conflicts lie between existing marine management arrangements and ones that are respectful of local Traditional Owner's governance of saltwater country. For example, local marine area planning could address the following questions:

- How can the recognition of local Indigenous governance and stewardship of sea country contribute to marine conservation, management of marine protected areas and sustainable development?
- How can commercial fishing enterprises comply with a cultural obligation to seek permission from Traditional Owners to access saltwater country and resources?
- How can commercial benefits from saltwater country be shared with Traditional Owners?
- Are joint commercial ventures between Traditional Owners and commercial fishing operators an appropriate mechanism to recognise Traditional Owners' governance of saltwater country and deliver economic benefits to them?
- How can a hierarchy of resource access be established that protects subsistence resources, respects Indigenous economic dependence on local marine environments and supports a continuation of commercial fisheries and the further development of recreational fishing tourism in the Planning Area?
- What education, training and other capacity-building measures (for Traditional Owners, fisheries managers and other marine stakeholders) are required to give effect to Traditional Owners' governance of saltwater country, in the context of contemporary regional, national and international marine environmental and resource management?



- What measures need to be taken to nurture the cultural values of saltwater country, including language maintenance and transmission, application of Indigenous knowledge and protection of cultural sites and Dreaming tracks, as part of the overall marine management framework?

It is recognised that the implementation of local area planning and management will occur in the context of ongoing court decisions and strategic policy initiatives. The 2003 review of Commonwealth fisheries policy (AFFA 2003), for example, commits the Australian Government to developing an 'Aboriginal and Torres Strait Fisheries Strategy'. Local area planning, on the basis of local Traditional Owners' authority over particular areas of saltwater country, can potentially form the building blocks for such a strategy – something that was missing from the Australian Government's previous attempt to develop an identically named strategy in the 1990s. While the earlier strategy (see Smyth 2000 for a review of its processes and outcomes) provided a catalyst for state and territory reviews of Indigenous involvement in fisheries management, only NSW and Western Australia developed their own strategic policy responses⁷, neither of which explicitly provides for local area planning and management.

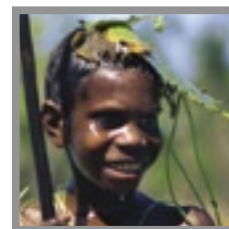
The concept of local sea country planning and governance is consistent with the existing administrative structures of land councils and other regional Indigenous organisations in Queensland and the Northern Territory, which have been established to support the rights and interests of local Traditional Owner groups, and to represent their interests in negotiations with government agencies and other parties when required to do so. Local Aboriginal planning and governance offers a mechanism for recognising the diversity of cultures and histories within the areas of responsibility of each land council, while strengthening the role of Traditional Owner groups in decision-making about, and benefiting from, their saltwater country.

In the southern Gulf of Carpentaria, for example, the island-based Aboriginal societies utilise coastal and deep water marine resources, and are linked by cultural sites and Dreaming tracks that extend far off shore and to distant coastlines, while on western Cape York Peninsula, Aboriginal societies are more focused on the extensive estuarine ecosystems. However, towards the north of Cape York Peninsula, where estuarine systems are less a feature of the saltwater country, Aboriginal societies utilise the resources of the Arafura Sea, while on the Arnhem Land coast, Aboriginal societies utilise coastal, island, offshore and estuarine systems. Local sea country plans and governance arrangements can accommodate this diversity of environments and Aboriginal use patterns, as well as recognising local realities of customary affiliation and obligation.

Finally, the literature reviews show the necessity of taking a broad view of the maritime economies of the region. While commercial fishing and marine tourism may be the dominant marine industries, the real marine economy of the region includes direct consumption of marine resources, environmental and fisheries management, research and monitoring, and coastal surveillance. All these activities are taking place on the saltwater country of particular groups of people who need to be involved in, and benefit from, this broader economy if they are to prosper beyond the constraints of welfare and CDEP. Regional marine planning provides an opportunity to set the framework for a shift in the operation of this broader economy towards the Indigenous people of the region who form a majority of the population, who are economically and socially disadvantaged, and who have a long-term commitment to the region based on customary rights and obligations. The devolution of marine resource and environmental governance, financial and training support for Indigenous land and sea management agencies, and the articulation of Indigenous and government planning, management and research programs all provide opportunities for achieving this strategic shift.

The achievements of land councils, Aboriginal land and sea management agencies and other regional Indigenous organisations, and the partnerships they have developed with research institutions and government agencies

⁷ The NSW Indigenous Fisheries Strategy was released in December 2002. The Western Australian Draft Aboriginal Fisheries Strategy (Franklyn 2003) was released in May 2003.



in some parts of the Planning Area, demonstrate that there is an existing Indigenous capacity for, and commitment to, sustainable sea country management. However, the legal mechanisms, policy frameworks and financial resources to develop this approach to its full potential are currently lacking. Local area planning, supported through the broader regional marine planning framework, presents an opportunity to explore the policy, legal and resourcing implications to achieve this potential.

Table 18 summarises the key issues raised in the literature reviews, and poses key challenges that can be addressed by innovative regional marine planning, particularly through local area planning projects.

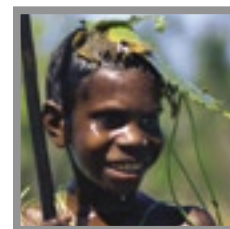
Indigenous issues and perspectives	Management challenges
Particular groups of Aboriginal people have rights and responsibilities to particular areas of the sea.	How to reflect area-based Aboriginal rights and responsibilities in fisheries and other marine management?
Sea country extends inland to the furthest limit of saltwater influence – it includes beaches, salt pans, mud flats, beach ridges (which become islands in very high tides, additional wet season effects), etc. Land and sea are inseparably connected.	How to integrate marine and coastal management to reflect the holistic Aboriginal view of maritime environments?
Visitors to sea country require permission from Traditional Owners before entering the area or using resources. Current arrangements, particularly for fisheries, are not addressing this.	How to build customary requirements for seeking permission for access and resource use into contemporary fisheries and other marine activities?
Visitors using sea country resources must share those resources with Traditional Owners.	How to establish benefit-sharing arrangements between Traditional Owners and marine industries?
Special cultural sites, dangerous story places etc. must be respected and avoided.	How to communicate and protect cultural sites, while retaining privacy and cultural protocols?
Aboriginal people have an established tradition of trading in local marine resources, within their own group, between groups and with outsiders – for example with Macassans.	How can customary trading relationships be recognised in contemporary marine resource management?
Use and management of sea country and marine resources are central to the maintenance of Aboriginal culture, identity and economy.	How can this fundamental, non-transferable connection between people, sea country and marine resources be recognised?
Coastal Traditional Owners have traditionally built their economy on local sea country resources.	How can the economic futures of small, isolated Traditional Owner communities and outstations be supported through marine resource management?

Table 18: Summary of key themes and challenges arising from the literature reviews



PART D: CONCLUSIONS

Indigenous issues and perspectives	Management challenges
<p>Aboriginal use and management of sea country is intimately connected with complex cultural values and practices, including language, customary law, stories, songs, ceremonies, belief systems, social structures etc.</p>	<p>How can the complexity of cultural values, practices and knowledge associated with sea country be maintained? What is the role of marine planning and management in maintaining these values and practices?</p>
<p>Aboriginal connection to sea country has resulted in very long associations between groups of people and their descendants with particular coastal and marine areas.</p>	<p>How can this continuing long-term relationship be recognised in contrast to the largely transient non-Indigenous population?</p>
<p>Traditional Aboriginal society equipped each generation with the skills and knowledge to use and manage their sea country.</p>	<p>What training, education and other capacity building is needed to equip current and future generations of Traditional Owners to manage their sea country in the context of greater complexity in marine management?</p>
<p>To make it worthwhile for Traditional Owners and their representative organisations to engage comprehensively in the regional marine planning process, key Aboriginal issues must be addressed as a priority.</p>	<p>How can the regional marine planning process proceed in ways meaningful to Aboriginal people?</p>
<p>People are tired of meetings and committees and talks that do not lead to practical changes and outcomes.</p>	<p>How can development of the regional plan itself operate to allow Traditional Owners to address real management issues for their sea country?</p>
<p>Sea country decisions are made at the local or subregional level according to traditional law and knowledge.</p>	<p>How can Oceans Policy work to strengthen this system and support this extensive knowledge base in a way that is culturally appropriate?</p>

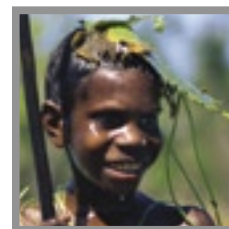


REFERENCES

- Aboriginal Areas Protection Authority (2002). *Sacred Sites in Northern Territory Coastal Waters*. Compact Disk, Aboriginal Areas Protection Authority, Darwin.
- Abrahams H et al (1995). 'An Assessment of the Conservation and Natural Heritage Significance of Cape York Peninsula'. CYPLUS Brisbane
- ABS (Australian Bureau of Statistics) (2001). 'Aboriginal Community Profiles, Census of Population and Housing'. Canberra.
- Agriculture, Fisheries and Forestry - Australia (2003). *Looking to the Future – A Review of Commonwealth Fisheries Policy*. Department of Agriculture, Fisheries and Forestry – Australia, Canberra.
- Allen, D (1993). Some Shadow of the Rights Known to Our Law. In: *Turning the Tide: Proceedings of Conference on Indigenous Peoples and Sea Rights*. Faculty of Law, Northern Territory University. pp 53-64.
- Allen, D (1994). Saltwater Dreaming. In: Jull, P (ed.) *Surviving Columbus: Indigenous Peoples, Political Reform and Environmental Management in North Australia*. North Australia Research Unit, Australian National University, Darwin. pp 39-46.
- Alpher Barry, (1991). 'Yir – Yoront Lexicon. Sketch and Dictionary of an Australian Language'. New York.
- Altman, JC (1987). *Hunter-Gatherers today: An Aboriginal Economy in Northern Australia*. Australian Institute of Aboriginal and Torres Strait Islander Studies, Canberra.
- Altman, JC (2000). The economic status of Indigenous Australian. *Centre for Aboriginal Economic Policy Research Discussion Paper No. 193*. Australian National University.
- Altman, JC and Taylor, J (1989). *The Economic Viability of Aboriginal Outstations and Homelands*. Report to the Australian Council for Employment and Training, Australian Government Publishing Service, Canberra.
- Altman, JC, Ginn, A and Smith, DE (1993). *Existing and Potential Mechanisms for Indigenous Involvement in Coastal Zone Management*. Consultancy report for the Coastal Zone Inquiry. Resource Assessment Commission, Canberra.
- Altman, JC. (2001). Sustainable development options on Aboriginal land: The hybrid economy in the twenty-first century. *Centre for Aboriginal Economic Policy Research Discussion Paper No. 226*. Australian National University, Canberra.
- Arthur, WS (1990). *Between Two Worlds: Aboriginal Cultural Economy and Economic Assimilation in Remote Western Australia in the 1980s*. MA thesis Department of Anthropology, University of Western Australia.
- Asafu-Adjaye John (1995). 'Cape York Land Use Strategy: Traditional Activities Project Report'. CYPLUS Brisbane
- Australian Bureau of Statistics (2002). Population Distribution: Aboriginal and Torres Strait Islander Australians, 2001. ABS Catalogue No. 4705.0
- Australian Bureau of Statistics (2003). www.abs.gov.au
- Bagshaw, G (1998). *Gapu Dhulway, Gapu Maramba: conceptualization and ownership of saltwater among Burarra and Yannhangu peoples of northeast Arnhemland*. In: Peterson, N and Rigsby, B (eds). *Customary Marine Tenure in Australia*. Oceania Monograph 48, University of Sydney, Sydney.
- Bailey G N, (1977). 'Shell Mounds, Shell Middens, and Raised Beaches in Cape York Peninsula'. *Mankind*, 11, 132 – 143.
- Baker, R (1999). *Land Is Life: From bush to town – the story of the Yanyuwa people*. Allen and Unwin, Sydney.
- Bartlett, R (1993). Aboriginal sea rights at common law: Mabo and the sea. In: *Turning the Tide: Proceedings of Conference on Indigenous Peoples and Sea Rights*. Faculty of Law, Northern Territory University. pp 9-20.
- Bergin, A (1991). Aboriginal Sea Claims in the Northern Territory of Australia. *Ocean and Shoreline Management* 15: 171-204.
- Binford Lewis R, (1980). 'Willow Smoke and Dog's Tails : Hunter-Gatherer Settlement Systems and Archaeological Site Formation'. *American Antiquity*, 45, 1, 4 - 20.
- Blackburn, RA (1970). *Milirrpum v Nabalco*. Northern Territory Supreme Court, Darwin.



- Bradley, J (1991). 'Li-Maramaranja': Yanyuwa Hunters of Marine Animals in the Sir Edward Pellew Group, Northern Territory. *Records of the South Australian Museum* (25(1): 91-110.
- Bradley, J (1997). *Li Anathawirriyuarra, people of the sea: Yanuwa relations with their maritime environment*. PhD Thesis, Faculty of Arts, Northern Territory University, Darwin.
- Bradley, J (1998). 'We always look north': Yanyuwa Identity and the Maritime Environment. In: Peterson, N and Rigsby, B (eds). *Customary Marine Tenure in Australia*. Oceania Monograph 48, University of Sydney, Sydney.
- Buku-Larr gay Mulka Centre (1999). *Saltwater: Yirrkala Bark Paintings of Sea Country – Recognising Indigenous Sea Rights*. Jennifer Isaacs Publishing.
- Burne R V and Graham T L (1995). 'Coastal Environment Geoscience of Cape York Peninsula'. CYPLUS Brisbane
- Campbell, J. (1988). Role of Fishing in Aboriginal Society before European Arrival in Australia. In: Gray, F and Zann, L (eds) *Workshop on Traditional Knowledge of the Marine Environment in Northern Australia*. Workshop Series No. 8: 1-3. Great barrier Reef Marine Park Authority, Townsville.
- Chase Atholl, (1980). 'Which way now?: tradition, continuity and change in a North Queensland aboriginal community'. Unpublished Ph.D thesis. University of Queensland.
- Chase, A (1980). Cultural Continuity: land and resources among east Cape York Aborigines. In: Stevens, NC and Bailey, A (eds) *Contemporary Cape York Peninsula*. Royal Society of Queensland, Brisbane.
- Chase Atholl and Sutton Peter (1981). 'Hunters and Gatherers in a Rich Environment: Aboriginal coastal exploitation in Cape York Peninsula.' In Keat I (editor). 'Biogeography and Ecology of Australia'. The Hague.
- Coates, J (2002). *Sea Turtle and Dugong of the south-west Gulf of Carpentaria: Incorporating traditional knowledge into sustainable resource management*. Report to Environment Australia, Canberra.
- Cole, K (1980). *Seafarers of the Groote Archipelago*. Keith Cole Publications.
- Coleman, APM, Henry, GW, Reid, DD and Murphy, JJ (I 2003). *Indigenous Fishing Survey of Northern Australia*. Department of Agriculture, Forestry and Fisheries – Australia, Canberra.
- Commonwealth of Australia (1987). *Return to Country: The Aboriginal Homelands Movement in Australia*. Report of the House of Representatives Standing Committee on Aboriginal Affairs, Australian Government Publishing Service, Canberra.
- Commonwealth of Australia (1991). *Ecologically Sustainable Development Working Groups: Final report – Fisheries*. Australian Government Publishing Service, Canberra.
- Commonwealth of Australia (1995). *Living on the Coast – Commonwealth Coastal Policy*. Australian Government Publishing Service, Canberra.
- Commonwealth of Australia (1997). *Managing Commonwealth Fisheries: The Last Frontier*. Report of the House of Representatives Standing Committee on Primary Industries, Resources and Rural and regional Affairs. Australian Government Publishing Service, Canberra.
- Commonwealth of Australia (1998). *Australia's Oceans Policy*. Australian Government Publishing Service, Canberra.
- Commonwealth of Australia (1999). *Strategic Plan of Action for the National Representative System of Marine Protected Areas*. Environment Australia, Canberra.
- Commonwealth of Australia (2001). *Australians Working Together: helping People to Move Forward*. DFACS, Canberra.
- Connell Wagner (1989). 'Cape York Peninsula Resource Analysis'. Cairns
- Connors, L (1986). *An Annotated Bibliography of the Aboriginal Homelands Movement in Australia*. Aboriginal and Torres Strait Section, Department of Social security, Canberra.
- Cooke, P (1994). *Planning a Future at Cape York Outstations*. Report two from the Cape York Outstations project, Cape York Land Council, Cairns.



Cooke Peter, (1995). 'Looking forward : outstations and indigenous management of land and sea on Cape York Peninsula'. CYPLUS Brisbane

Cooke, P and Armstrong, G (1998). Ownership and Resource Use on Islands off Liverpool River, Northern Territory. In: Peterson, N and Rigsby, B (eds). *Customary Marine Tenure in Australia*. Oceania Monograph 48, University of Sydney, Sydney.

Cooke Peter and Guivarra Ricky (1995). 'A tangled web: management of land and sea at Old Mapoon'. CYPLUS Brisbane

Coombs, HC, Dexter, BG and Hiatt, LR (1982). The outstation movement in Aboriginal Australia. In: Leacock, E and Lee, RB (eds) *Politics and History in Band Societies*. Cambridge University Press.

Cordell (1991). *Managing Sea Country: Tenure and Sustainability of Aboriginal and Torres Strait Islander Marine Resources*. Unpublished report to the Ecologically Sustainable Development Fisheries Working Group, Canberra.

Cordell John and David Bruno, (1993). 'Cultural site mapping in the Mitchell River Delta : Stage 1'. Unpublished report to Kowanyama Land and Natural Resource Management Office.

Cordell John, (1995) (editor). 'Indigenous management of land and sea and traditional activities in Cape York Peninsula'. Cape York Peninsula Landuse Strategy. Brisbane. Queensland.

CYPLUS (1996). 'A Strategy for Sustainable Land use and Economic and Social Development'. Cape York Regional Advisory Group. Cairns. Queensland.

Dampier, W (1906). *Dampiers voyages : consisting of a new voyage round the world, a supplement to the voyage round the world, two voyages to Campeachy, a discourse of winds, a voyage to New Holland, and a vindication, answer to the chimerical relation of William Funnell*. Richards, London.

Danaher K (1995). 'Marine Vegetation of Cape York Peninsula'. CYPLUS Brisbane

Davis, S (1982). *Report on the Castlereagh Bay and Howard Island Sea Closure Application*. Aboriginal Sacred Sites Authority, Darwin.

Davis, S (1983). *Aboriginal Claims to Coastal Waters in North Eastern Arnhemland, Northern Australia*. Presentation to the Maritime Institutions in the Western Pacific, Osaka, Japan.

Davis, S (1984). *Aboriginal tenure and use of the coast and sea in northern Arnhem Land*. MA thesis, University of Melbourne, Melbourne.

Davis, S (1985). Aboriginal Sea Rights in Northern Australia. *Maritime Studies* 21: 12-19.

Davis, R and Arthur, WS (1998). Homelands and resource agencies since the Blanchard Report: a review of the literature and an annotated bibliography. *Centre for Aboriginal Economic Policy Research Discussion Paper No. 165*. Australian National University, Canberra.

Department of Business, Industry and Resource Development (2003). <http://www.nt.gov.au/dbird/dpif/fisheries/indigenous/consultative.shtml>

Dhimurru (2003). <http://members.iinet.net.au/~dhimurru/about.htm>

Environment Australia (2003). <http://www.ea.gov.au/indigenous/ipa/index.html>

Environment North (1999). *Multiple Use Strategic Plan for the Southern Gulf of Carpentaria*. Final Reports 1-5 to the Queensland Department of State Development, Brisbane.

Environmental Protection Authority (2003). http://www.epa.qld.gov.au/about_the_epa/media_statements/fact_sheets/queenslands_marine_protected_areas/

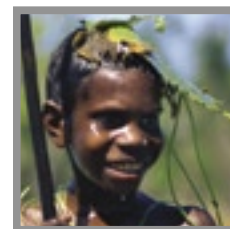
Evans, N (1995). *A Grammar of Kayardild, with Historical – Comparative Notes on Tangkic*. Mouton de Gruyter, Berlin.

Evatt, E (1996). *Review of the Aboriginal and Torres Strait Islander Heritage Protection Act 1984*. Australian Government Publishing Service, Canberra.

Finlayson, J and Smith, D (1995). Native Title: Emerging Issues for research, Policy and Practice. *Centre for Aboriginal Economic Policy research Discussion Paper No. 10*. Australian National University.



- Flood, J (1983). *Archaeology of the Dreamtime – the Story of Prehistoric Australia and Her People*. Collins, Sydney.
- Flood, (1990). *The Riches of Ancient Australia*. University of Queensland Press, Brisbane.
- Fisheries Research Development Corporation (2000). *Investing in Tomorrow's Fish: the FRDC's Research and Development Plan, 2000-2005*. Fisheries Research and Development Corporation, Canberra.
- Franklyn, EM (2003). *Aboriginal Fishing Strategy – "Recognising the Past, Fishing for the Future"*. Draft Report to the Minister for Agriculture, Forestry and Fisheries. Fisheries Management Paper No. 168, Department of Fisheries, Perth.
- Galloway R W, Gunn R H, Story R, (1970). 'Lands of the Mitchell – Normanby Area'. Land Research Series No. 26. CSIRO. Australia.
- Ganter, E (1997). Indigenous participation in coastal management in the Northern Territory, Australia: issues and options. *Oceans and Coastal Management*, 33 (1-3): 193-212.
- Gerritsen, R and Phillpot, S (1996). *A Survey of Outstations and Their policy Implications: Overview Report*. Australian Centre for Regional and Local Government Studies, University of Canberra, and Aboriginal and Torres Strait Islander Commission, Canberra.
- Gillespie, D and Cooke, P (1998). *Improving the capacity of Indigenous people to contribute to the conservation of biodiversity in Australia*. Report commissioned for the Biological Diversity Advisory Council, Environment Australia, Canberra.
- Ginitjirra Mala (1994). *An Indigenous Marine Protection Strategy for Manbuynga ga Rulyapa (Arafura Sea)*. Report to Northern Land Council, with assistance from ADVYZ, Darwin.
- Glaskin, K (2000). Limitations to the Recognition and Protection of Native Title Offshore: The Current 'Accident of History'. *Land, Rights, Laws: Issues of Native Title* 2(5): 1-8.
- Gould R A, (1991). 'Arid-Land Foraging As Seen From Australia : Adaptive Models and Behavioural Realities'. *Oceania*, 62, 12 – 33.
- Gribble Ernest, (1933). 'A despised race: the vanishing Aboriginals of Australia'. Australian Board of Mission. Sydney.
- Griffiths, T (2000). *Sustainability of Wildlife Use for Subsistence in the Maningrida Region*. Progress report to Natural Heritage Trust, ARC Key Centre for Tropical Wildlife Management, Northern Territory University, Darwin.
- Heath, J (1980). *Nunggubuyu myths and ethnographic texts*. Australian Institute of Aboriginal Studies, Canberra.
- Henry, GW and Lyle, JM (2003). *The National Recreational and Indigenous Fishing Survey Final report*. New South Wales Fisheries Final report Series 48.
- High Court of Australia (1996). 'Matter No. B9 of 1996. The Thayorre people and the State of Queensland and Orr'. Canberra.
- HORSCOATSIA (1999). *Unlocking the Future: The Report of the Inquiry into the Reeves Review of the Aboriginal Land Rights (Northern Territory) Act 1976*, Parliament House, Canberra.
- Horton, D (Ed.) (1994a). *The Encyclopaedia of Aboriginal Australia*. Aboriginal Studies Press, Canberra.
- Horton, D (1994b). *Aboriginal Australia*. Map of Aboriginal and Torres Strait Islander language groups. Aboriginal Studies Press
- Jackson, S (1997). *Indigenous Rights to Fisheries and Water, and Participation in the Resource Management regimes of New Zealand, U.S.A. and Canada*. Consultancy report to the Northern Land Council, Darwin.
- Jull, P. 1993. *A Sea Change: overseas Indigenous-government relations in the coastal zone*. Resource Assessment Commission, Canberra.
- Kearney, J (1988). *Closure of Seas: Castlereagh Bay/Howard Island Region of Arnhemland*. Report by Aboriginal Land Commissioner to the Administrator of the Northern Territory.
- Keen, I (1980). *Report on the Milingimbi closure of seas hearing*. A Submission to the Aboriginal Land Commissioner, for the Northern Land Council, Darwin.



Keon-Cohen, B (Ed.) (2001). *Native Title in the New Millennium*. Selection of papers from the 2000 Native Title Representative Bodies Legal Conference. Aboriginal Studies Press, Canberra.

Kidd Rosalind, (1997). 'The way we civilise : Aboriginal affairs – the untold story'. University of Queensland Press.

Kilduff, P and Löfgren, N (1996). Native title fishing rights in coastal waters and territorial seas. *Aboriginal Law Bulletin* 3(81): 16-17.

Kinфу, Y and Taylor, J (2002). Estimating the components of Indigenous population change, 1996-2001. *Centre for Aboriginal Economic Policy research Discussion Paper No 240*. Australian National University.

Lane M B (1993). 'Land Use, Development and Social Impact on Cape York Peninsula, North Australia' Discussion Paper #21, Darwin, ANU, NARU

Lane Marcus and Chase Athol (1996). 'Resource Development on Cape York Peninsula : marginalisation and denial of indigenous perspectives' in Richard Howitt, John Connell, Philip Hirsch (eds) 1996. 'Resources, nations and indigenous peoples : case studies from Australia, Melanesia and south-east Asia'. OUP Australia

Lanhupuy, W (1993). Marine Management for 40,000 years: A Yolngu view of sea rights. In: *Turning the Tide: Proceedings of Conference on Indigenous Peoples and Sea Rights*. Faculty of Law, Northern Territory University. pp 4-8.

Lawson, B (1984). *Aboriginal Fishing and Ownership of the Sea*. Unpublished report, Fisheries Division, Department of Primary Industry, Canberra.

Lee, C and Nel, S (2001). *A National Aquaculture Development Strategy for Indigenous Communities in Australia*. Department of Agriculture, Fisheries and Forestry – Australia, Canberra.

Lesslie R, Abrahams H and Maslen M, (1992). 'Wilderness quality on Cape York Peninsula'. Australian Heritage Commission. Canberra.

Levy, R (2001). Who can fish in tidal waters on Aboriginal Land. *Indigenous Law Bulletin* 5(7): 17-18.

Loos, N (1990). A Chapter of Conflict: Aboriginal – European relations in North Queensland 1606-1992. In: Reynolds, H (ed.) *Race Relations in North Queensland*. Department of History and Politics, James Cook University, Townsville.

MacIntyre Susan and Greer Shelley (1995). 'The communities of northern Cape York (NPA) in J Cordell (ed) 1995, *CYPLUS*, Brisbane.

Macknight, CC (1976). *The Voyage to Marege: Macassan trepanners in northern Australia*. Melbourne University Press, Melbourne.

Macknight, CC (1986). Macassans and the Aboriginal past. *Archaeology in Oceania* 21(1); 69-75.

Marsh, H, Gardner, BR, and Heinsohn, GE (1981). *Present Day Hunting and Distribution of Dugongs in the Wellesley Islands*. Applied Science Publishers, London.

Marsh, H, Heinsohn, GE and Marsh, LE (1994). *Breeding cycle, life history and population dynamics of the Dugong* Dugong dugon (Sirenia: Dugongidae). *Australian Journal of Zoology* 32:767-788.

Martin, DF and Taylor, J (1995). Enumerating the Aboriginal population of remote Australia: methodological and conceptual issues. *Centre for Aboriginal Economic Policy Research Discussion Paper No. 91*, Australian National University.

Martin David F, (1997). 'Regional agreements and localism : a case study from Cape York Peninsula'. CAEPR report number 146, ANU, Canberra.

McClure P (2000). *Participation Support for a More Equitable Society: Final report of the Reference Group on Welfare Reform*, DFAC, Canberra.

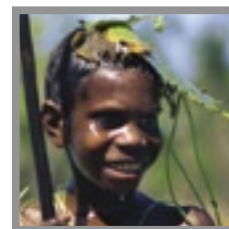
McConnell Ursula, (1939). 'Social Organisation of the Tribes of Cape York Peninsula, North Queensland'. *Oceania*, X, 1, 55 – 72.

McIntyre, G (1993). Mabo and sea rights: Public rights, property or pragmatism? In: *Turning the Tide: Proceedings of Conference on Indigenous Peoples and Sea Rights*. Faculty of Law, Northern Territory University. pp 107-112.

Meehan, B (1982). *Shell Bed to Shell Midden*. Australian Institute of Aboriginal Studies, Canberra.



- Memmott, P (1983). Social structure and use of space amongst the Lardil. In Peterson, N. and Langton, M (eds) *Aborigines, land and Land Rights*. Australian Institute of Aboriginal Studies, Canberra, pp33-65.
- Memmott, P and Trigger, D (1998). Marine Ture in the Wellesley Islands Region, Gulf of Carpentaria. In: Peterson, N and Rigsby, B (eds) *Customary Marine Tenure in Australia*. Oceania Monograph 48, University of Sydney, Sydney, pp109-124.
- Meyers, GD, O'Dell, M, Wright, G and Muller, S (1996). *A Sea Change in Land Rights Law: The Extension of Native Title to Australia's Offshore Areas*. Native Title Research Unit Monograph, Australian Institute of Aboriginal and Torres Strait Islander Studies, Canberra.
- Monaghan J and Taylor J C, (1995). 'Traditional and Current Land Use in the Pormpuraaw Community'. Chapter 2 in John Cordell (editor) 1995.
- Monaghan J, (2001). 'An Atlas of the Wetlands in the Kowanyama DOGIT and a Preliminary Assessment of their Value to the Kowanyama Community'. A Report to Kowanyama Land and Natural Resource Management Office.
- Monaghan J, (2003a). 'Landscape Mapping of the Traditional Country of the People of Pormpuraaw'. A Report to the Pormpuraaw Land and Sea Management Centre.
- Monaghan J, (2003b). 'Landscape Mapping of the Traditional Country of the People of Kowanyama'. A Report to Kowanyama Land and Natural Resource Management Office.
- Monaghan J, (2003c). 'Our Way: Social Space and the Geography of Land Allocation Practice on the Southern Gulf Lowlands of Cape York Peninsula'. Draft PhD Thesis. March 2003.
- Monaghan J, (2003d). 'A Review of the Use of Sea Country in Kowanyama'. A Report to Kowanyama Land and Natural Resource Management Office.
- Monaghan J and Taylor J C, (2003). 'Natural Disaster Risk Mitigation Plan for the Pormpuraaw Community'. A Report to the Pormpuraaw Aboriginal Council and Queensland State Emergency Services.
- Morphy, H (1977). The ownership of the sea in north-east Arnhem Land. *Hansard of the Joint Select Committee of Aboriginal Land Rights in the Northern Territory, 3rd May*, pp1100-1103.
- Morphy, F (2002). When systems collide: The 2001 Census at a Northern territory outstations, in Martin, D, Morphy, F, Saunders, W and Taylor, J *Making Sense of the Census: Observations and Enumerations in Remote Indigenous Australia*, Centre for Aboriginal Economic Policy Research Monograph No. 22, Australian National University, Canberra.
- Morris, J (2002). Sea Country: the Croker Island case: Commonwealth of Australia v Yarmirr. *Indigenous Law Bulletin* 5(14): 18-20.
- National Oceans Office (2003a). *Draft South-east Regional Marine Plan*. National Oceans Office, Hobart.
- National Oceans Office (2003b). Snapshot of the Northern Planning Area. National Oceans Office, Hobart.
- Neldner V J and Clarkson J R (1995) et al. 'Vegetation Survey and Mapping of Cape York Peninsula'. CYPLUS Brisbane
- Northern Land Council (1992). *Submission to the Coastal Zone Inquiry*, Resource Assessment Commission, Canberra, Submission No. 211, pp 10-11.
- Northern Land Council (1997). *Our Land, Our Law – Northern land Council Submission to the Review of the Aboriginal Land Rights (Northern Territory) Act 1976*, NLC, Darwin.
- Northern Land Council (1999). Northern Land Council Submission to the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs Inquiry into the Reeves Review of the *Aboriginal Land Rights (Northern Territory) Act 1976*. NLC, Darwin.
- Northern Land Council (2003). *Comments on Draft Management Program for Dugong (Dugong dugon) in the Northern Territory of Australia 2003-2008*. Northern Land Council, Darwin.



Palmer, K (1988). Status of documentary information on Aboriginal and Islander fishing and marine hunting in northern Australia. In: Gray, L and Zann, L (Eds) *Traditional knowledge of the marine environment in northern Australia*. Great Barrier Reef Marine Park Authority, Townsville, pp4-19.

Palmer, K (1983). *Report prepared in support of an application to control entry onto seas adjoining Aboriginal land*. Prepared on behalf of the Umbakumba Aboriginal Community and other traditional owners, for the Northern Land Council, Darwin.

Palmer, K (1984). Ownership and use of the seas: the Yolngu of north-east Arnhem Land. *Anthropological Forum* 9(3):448-55.

Palmer, K. 1998. Customary Marine Tenure at Groote Eylandt. In: Peterson, N and Rigsby, B (eds) *Customary Marine Tenure in Australia*. Oceania Monograph 48, University of Sydney, Sydney.

Palmer, K and Brady, J (1984). *A report prepared in support of an application to control entry onto seas adjoining Aboriginal land: Croker Island and other islands, N.T.* Northern Land Council, Darwin.

Pannell, S (1998). The Promise of Native Title and the Predicament of Customary Marine Tenure. In: Peterson, N and Rigsby, B (eds) *Customary Marine Tenure in Australia*. Oceania Monograph 48, University of Sydney, Sydney.

Parks and Wildlife Service (2003). *Management Program for Dugong (Dugong dugon) in the Northern Territory of Australia 2003-2008*. Department of Infrastructure, Planning and Environment, Darwin.

Peterson, N and Rigsby, B (eds) (1998). *Customary Marine Tenure in Australia*. Oceania Monograph 48, University of Sydney, Sydney.

Queensland Indigenous Working Group (2002). *Aboriginal Cultural Heritage Bill 2001 – QWIG Submission to the Queensland Government, QWIG, Brisbane*.

Reeves, J (1998). *Building on Land Rights for the Next Generation: The Review of the Aboriginal Land Rights (Northern Territory) Act 1976*. Australian Government. Publishing Service, Canberra.

Resource Assessment Commission (1993). *Coastal Zone Inquiry Final Report*. Resource Assessment Commission, Canberra.

Resource Policy and Management (2001). *Indigenous Access to Departmental Programs*. Consultancy report to Department of Agriculture, Fisheries, Forestry – Australia, Canberra.

Rhodes E.G, (1980). 'Modes of holocene coastal progradation, Gulf of Carpentaria'. PhD dissertation, Australian National University

Rose, VF (1961). The Indonesians and the genesis of the Groote Eylandt Society, Northern Australia. *Veröffentlichungen des Museums für Völkerkunde zu Leipzig*, 11: 524-531.

Roth W, (1907). North Queensland Ethnography. Bulletin No.18.

Rowse Tim, (1992). 'Remote possibilities : the aboriginal domain and the administrative imagination'. North Australia Research Unit. ANU. Casuarina.

Saalfeld, WK (2000). *Distribution and Abundance of Dugong in the Coastal Waters of the Northern Territory*. Technical report, Parks and Wildlife Commission of the Northern Territory, Darwin.

Sattler P. and Williams, R., (1999). 'The conservation status of Queensland's bioregional ecosystems'. Environment Protection Agency, Queensland.

Scott, G (2003). *Fisheries Management: Issues of Concern to Aboriginal Traditional Owners in the Northern Land Council Region 1995-2003*. Draft report to the Northern Land Council, Darwin.

Scwabe, RG (1995). The calculus of reciprocity: principles and implications of Aboriginal sharing. *Centre for Aboriginal Economic Policy research Discussion Paper No. 100*. Australian National University.

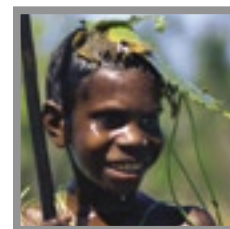
Sharp, N (1996). *No Ordinary Judgment*. Aboriginal Studies Press, Canberra.

Sharp, N (1998). Terrestrial and Marine Space in Imagination and Social Life. *Arena Journal* 10:51-83.

Sharp, N (2002). *Saltwater People – the waves of memory*. Allen and Unwin, Sydney.



- Sinnamon Viv, (1997). 'Co-management and self governance: contemporary indigenous natural resource management'. 10 – 16 in Hale P and Lamb D, 1997. 'Conservation outside Nature Reserves'. University of Queensland
- Sharp Lauriston, (1937). 'The Social Anthropology of a Totemic System in North Queensland, Australia'. Unpublished Ph.D. thesis. Harvard University.
- Sharp Nonie, (1992). "Footprints along the Cape York Sandbeaches". Aboriginal Studies Press Canberra
- Smith Benjamin Richard, (2000). 'Between Places: Aboriginal Decentralisation, Mobility and Territoriality in the Region of Coen, Cape York Peninsula (Queensland, Australia)'. Unpublished PhD thesis. London School of Economics. University of London.
- Smyth, DM (1993). *A Voice in All Places – Aboriginal and Torres Strait Islander Interests in Australia's Coastal Zone*. Consultancy report to the Resource Assessment Commission, Canberra.
- Smyth, DM (1994). *Understanding Country – The Importance of Land and Sea in Aboriginal and Torres Strait Islander Societies*. Council for Aboriginal Reconciliation, Canberra.
- Smyth Dermot, (1995) . 'Indigenous peoples and the marine environment of Cape York Peninsula'. in Cordell J (ed) 1995. CYPLUS. Brisbane
- Smyth, DM (1996). Establishing Marine Protected Areas in Indigenous Environments. In: Thackway, R (ed.) *Developing Australia's System of Marine Protected Areas*. Ocean Rescue 2000 Workshop Series No. 2, Department of Environment, Sport and Territories, Canberra.
- Smyth, DM (1997). *Saltwater Country – Aboriginal and Torres Strait Islander Relationships with Australia's Oceans*. Issues Paper No.6 for Australia's Oceans Policy. Environment Australia, Canberra.
- Smyth, DM (1999). *Towards an Aboriginal and Torres Strait Islander Fisheries Strategy for Queensland*. Final report to the Queensland Fisheries management Authority on the outcomes of four regional workshops. Queensland Fisheries Management Authority, Brisbane.
- Smyth, DM (2000). Fishing For Recognition: The Search for an Indigenous Fisheries Policy in Australia. *Indigenous Law Bulletin* 4(29): 8-10.
- Smyth, DM (2001). Management of Sea Country – Indigenous Peoples' Use and Management of Marine Environments. IN: Baker, R, Davies, J and Young, E (Eds) *Working on Country – Contemporary Indigenous Management of Australia's Lands and Coastal Regions*. Oxford University Press, Melbourne.
- Smyth, DM (2002). Indigenous People and the Sea in the South-east Marine Region. In: *Sea Country – an Indigenous perspective*. Consultancy report for the South-east Regional Marine Plan. National Oceans Office, Hobart.
- Sparkes, S (1998). Below Low Water: Marine Boundaries and Native Title Law – a brief overview. *In the Wake of Wik – Old dilemmas, new directions in native title law*.
- Spicer, I. 1997. Independent review of the Community Development Employment Projects (CDEP) Scheme, (The Spicer Review), Office of Public Affairs, ATSIC, Canberra.
- Southon Michael and the Kaurareg Tribal Elders (1995). 'The Sea of Waubin: Customary marine tenure, traditional knowledge of the marine environment, and contemporary fisheries problems in the waters surrounding the Kaurareg islands'. in Cordell J (ed) 1995. CYPLUS. Brisbane
- Stanner W E H, (1965). 'Aboriginal Territorial Organisation : Estate, Range, Domain and Regime'. *Oceania*, XXXVI, 1, 1-26.
- Strang Veronica, (1994). 'A Kunjen Landscape : Mapping in the Alice River/ Mitchell River National Park'. Unpublished Report to the Kowanyama Land and Natural Resource Management Office.
- Strelein, L (2002). Native Title in the South-east Marine Region. In: Smyth, DM (2002) *Indigenous People and the Sea in the South-east Marine Region*. In: *Sea Country – an Indigenous perspective*. Consultancy report for the South-east Regional Marine Plan. National Oceans Office, Hobart, pp 104-124.
- Storrs M, Cooke P and Josif P (In Press). Caring for Country: The rapidly developing formalised structure for Aboriginal natural resource management in the Northern Land Council region of the Northern Territory. In: *Proceedings of the National Landcare Conference 2003, 28 April – 1 May 2003, Darwin*.



Suchet Sandra (1995). 'Rekindling Culture through Country: land and sea management of local land-owning families at Napranum'. CYPLUS Brisbane

von Sturmer John, (1978). 'The Wik Region : Economy, Territoriality and Totemism in Western Cape York Peninsula, North Queensland'. Unpublished Ph.D. thesis. University of Queensland.

Sutherland, J (1996). *Fisheries, Aquaculture and Aboriginal and Torres Strait Islander Peoples.: Studies, Policies and Legislation*. Consultancy report to the Department of Environment, Sport and Territories, Canberra.

Sutherland, J (1992). Rising Sea Claims on the Queensland East Coast. *Aboriginal Law Bulletin* 2(56): 17-19.

Sutton Peter, (1978). 'Wik : Aboriginal society, territory and language at Cape Keerweer, Cape York Peninsula, Australia'. Unpublished Ph.D. thesis. University of Queensland.

Sutton Peter and Rigsby Bruce, (1982). People with 'politicks': management of land and personnel on Australia's Cape York Peninsula'. In N M Williams and E S Hunn eds. 'Resource Managers : North American and Australian Hunter-Gatherers'. Boulder, Colorado.

Szabo, S and Smyth, DM (2003). Indigenous Protected Areas in Australia. In; Jaireth, H and Smyth, D (eds) *Innovative Governance – Indigenous Peoples, Local Communities and Protected Areas*. Ane Books, New Dehli.

Taylor J C, (1984). 'Of Acts and Axes. An ethnography of socio-cultural change in an Aboriginal community. Cape York Peninsula'. Unpublished Ph.D. thesis. James Cook University.

Taylor, J (1991). Geographic location and economic status: a census-based analysis of outstations in the Northern Territory. *Centre for Aboriginal Economic Policy research Discussion Paper No. 8*. Australian National University.

Taylor J C and Anderson J (1996). 'A household survey of the Pormpuraaw community'. Unpublished report to Pormpuraaw Community Council

Taylor, J and Bell, M (1996). Mobility among Indigenous Australian. In: Newton, PW, and Bell, M (eds) *Population Shift: Mobility and Change in Australia*. Australian Government publishing Service, Canberra.

Taylor J C, (1999). 'Indigenous Traditional Affiliations to Land in the Kowanyama Deed of Grant in Trust Area'. A Report to the Kowanyama Aboriginal Council and the Queensland Department of Natural Resources.

Taylor, J and Bell, M (1999). Changing Places: Indigenous population movement in the 1990s. *Centre for Aboriginal Economic Policy research Discussion Paper No. 189* Australian National University.

Taylor J C, (2003). A Review of the Use of Sea Country in Pormpuraaw'. A Report to Balkanu, Cape York Development Corporation.

Taylor, J (2003). Indigenous economic futures in the Northern Territory: The demographic and socioeconomic background. *Centre for Aboriginal Economic Policy research Discussion Paper No. 246*. Australian National University.

Tilbury R (1995). 'Aspects of Commercial and Non-Commercial Fisheries of Cape York Peninsula'. CYPLUS Brisbane

Tindale Norman, (1974). 'Aboriginal tribes of Australia. Their terrain, environmental controls, distribution, limits, and proper names; with an appendix on Tasmanian Tribes by Rhys Jones.' ANU. Canberra.

Thackway, R (1996). *Developing Australia's Representative System of Marine Protected Areas. – Criteria and guidelines for identification and selection*. Ocean Rescue 2000 Workshop Series, Australian Nature Conservation Agency, Canberra.

Thomson Donald, (1939). 'The Seasonal Factor in Human Culture'. *Proceedings of the Prehistoric Society of East Anglia*, 16, 209 – 221.

Tindale, N (1962). Geographical knowledge of the Kaiadilt people of Bentinck Island, Queensland. *Records of the South Australian Museum* 14(2): 259-296.

Tindale, N (1974). *Tribal boundaries in Aboriginal Australia*. Map drawn by Winifred Mumford, published by Division of National Mapping, Department of National Development, Canberra.

Tindale, N (1977). Further report on the Kaiadilt people of Bentinck Island, Gulf of Carpentaria, Queensland.



In: Allen, FJ, Golson, J and Jones, R. *Sunda and Sahul; prehistoric studies in Southeast Asia, Melanesia and Australia*. Academic Press, London, pp 247-273

Toohey, J (1983). *Closure of seas: Milingimbi, Crocodile Islands and Glyde River Area*. Report by Aboriginal Land Commissioner to the Administrator of the Northern Territory.

'Tramp' (1935). 'Civilization in the Far North. Mitchell River Mission'. In Cummins and Campbell's Monthly Magazine. May 1935.

Trigger, D (1987). Inland coast and islands: traditional Aboriginal society and material culture of the southern Gulf of Carpentaria. *Records of the South Australian Museum* 21(2):69-84.

Tsamenyi, M and Mfodwo, K (2000). *Towards Greater Indigenous Participation in Australian Commercial Fisheries: Some Policy Issues*. National Policy Office, Policy Paper Series, Aboriginal and Torres Strait Islander Commission, Canberra.

TSRA and ICC (1998). *Marine Strategy for Torres Strait*. Torres Strait Regional Authority and Island Coordinating Council, Thursday Island.

Turner, DH (1974). *Tradition and Transformation*. Australian Institute of Aboriginal Studies, Canberra,

Wallace, J and 12 Community Rangers (1992). Aboriginal Involvement in National Parks: Aboriginal Rangers' Perspectives. In: Birkhead, J, de Lacey, T and Smith, L (eds) *Aboriginal involvement in National Parks and Protected Areas*. Australian Institute of Aboriginal Studies, Canberra, pp29-38.

Watts, L (1990). *Aboriginal Languages and Communities of the Northern Territory*. Central Australian Media Association, Alice Springs.

White, D (1993). The Department of Foreign Affairs and trade's involvement with Indigenous peoples' rights over the sea. In: *Turning the Tide: Proceedings of Conference on Indigenous Peoples and Sea Rights*. Faculty of Law, Northern Territory University. pp 230-254.

White G, (1917). 'Round About the Torres Straits'. London Central Board of Missions.

White Mike E, (1978). 'Reservoir Surface Area from Landsat Imagery'. *Photogrammetric Engineering and Remote Sensing*, 44, 11, 1421 – 1426.

Whisson D A and Young P A R (1995). 'Areas Containing Significant Species or Habitats Outside the Existing National Parks and Reserves Network on Cape York Peninsula'. CYPLUS Brisbane

Wilson Ronald Darling, (1997). 'Bringing them home : report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families'. Human Rights and Equal Opportunities Commission. Sydney.

Woodward, AE (1973). *Aboriginal Land Rights Commission: First Report July 1973*. Australian Government Publishing Service, Canberra.

Worsley, P (1961). Utilization of natural food resources by an Australian Aboriginal tribe. *Acta Ethnographica* 10:153-90.

Yumbulul, T. and Djiniyini, K. 1994. *An Indigenous Marine Protection Strategy for Manbuyna ga Rulyapa or the Arafura Sea*. Report for the Northern Land Council and Ocean Rescue 2000, prepared by Ginjirrang Mala with the assistance of ADVYZ, Darwin.

Yunupingu, G. 1982. Letter accompanying the application for closure of seas in the Crocodile Islands / Glyde River area near Milingimbi. Northern Land Council, Darwin

Zann, L (1995). *Our Sea, Our Future – Major Findings of the State of the Marine Environment report for Australia*. Great Barrier Reef Marine Park Authority, Townsville.