

TABLE OF CONTENTS

Executive Summary	1
Terms of Reference.....	3
1. INTERNATIONAL LEGAL DEVELOPMENTS RELATING TO RECOGNITION OF ABORIGINAL PEOPLES RIGHTS TO MARINE RESOURCES	4
1.1 International Covenant on Civil and Political Rights.....	4
1.2 International Convention for the Elimination of all Forms of Racial Discrimination	5
1.3 International Labor Organisation Convention No. 169	5
1.4 1982 Law of the Sea Convention	7
1.5 Draft Declaration on the Rights of Indigenous Peoples	8
1.6 Agenda 21	10
1.7 Biological Diversity Convention.....	12
1.8 SPREP	13
1.9 GBRMPA Implications	13
2. OVERSEAS EXPERIENCE WITH INDIGENOUS SEA RIGHTS.....	15
2.1 New Zealand	15
2.2 Canada	18
2.3 United States	21
2.4 South Pacific	21
2.5 Implications for GBRMPA	23
3. AUSTRALIAN EXPERIENCE WITH SEA RIGHTS.....	24
3.1 Sea Rights in the Northern Territory and Queensland.....	24
3.2 Legislation on Aboriginal Fishing Rights.....	25
3.3 Queensland Fisheries Legislation.....	26
3.4 GBRMPA and Traditional Fishing.....	27
3.5 Torres Strait.....	28
3.6 Summary	29
4. MABO AND MARINE TRADITIONAL NATIVE PROPERTY RIGHTS	31
4.1 Summary of Mabo Judgement	31
4.2 Mabo and Marine Traditional Native Property Rights	33
4.3 Commonwealth Extinguishment of Marine TNPR	35
4.4 State Extinguishment of Marine TNPR.....	36
4.5 The Commonwealth and Marine TNPR	38
4.6 Compensation for Loss of Marine TNPR	38
4.7 GBRMPA Implications	39

5.	GBRMPA AND INDIGENOUS RIGHTS ISSUES	41
5.1	Smith Report 1987.....	43
5.2	Smyth 1990	44
5.3	Smyth 1992	45
5.4	Dugong Management.....	46
5.5	Ziegelbauer Report 1991.....	47
5.6	The Cordell Report 1991	48
5.7	ESD Fisheries Working Group Report 1991	50
5.8	Smyth Report to the Resource Assessment Commission 1993	50
5.9	GBRMPA and Aboriginal and Islander Involvement	52
5.10	Summary	55
6.	FUTURE DIRECTIONS.....	56
6.1	Recommendations for Aboriginal and Torres Strait Islander representation on the Consultative Committee need to be acted upon with a consequent change to the Act.....	56
6.2	Augment the resources of the Aboriginal liaison officer and move towards making this a higher level position.	57
6.3	The establishment of a separate Aboriginal and Islander Consultative Committee should be considered.	58
6.4	There should be a formal recognition in the Act that maritime clan boundaries and maritime clan estates will be recognised in zoning and management plans.	59
6.5	Recommendations for Aboriginal Management zones and Heritage areas in coastal regions near communities need to be acted upon.	59
6.6	Previous recommendations for Aboriginal communities to be involved in joint management strategies, using community rangers (see point 6.7 below) and to be directly consulted on marine resource use and management need to be acted upon.	60
6.7	The desire by Aboriginal communities to be involved in management through community rangers should be supported in ways that stress local training and supervision.	64
6.8	Move towards local management structures so that in the longer term the need for permits for traditional hunting will be reduced or eventually not be necessary.....	66
6.9	Strengthen information policies to target both Aboriginal communities and the public on issues of Aboriginal concern.	67
6.10	Consult with the Lands Department on Trends in Aboriginal lands claims.	68
6.11	Improve efforts to consult with Torres Strait Islander people and engage them in the management of the marine park.	69
6.12	Collaborative Research Program	70
6.13	Summary.....	71
	Recommendations	73
	Acknowledgments.....	77
	Bibliography	78
	Appendix A: Extract from GBRMPA 25 year Strategic Plan 1992-2017.....	85

TABLES

TABLE 1: ABORIGINAL DEED OF GRANT IN TRUST COMMUNITIES IN QUEENSLAND 42

TABLE 2: ABORIGINAL LOCAL GOVERNMENT COMMUNITIES 43

TABLE 3: ABORIGINAL INVOLVEMENT IN NATIONAL PARKS AND PROTECTED AREAS 62

TABLE 4: NATIONAL PARKS GAZETTED AS CLAIMABLE 69

