## 5. GBRMPA AND INDIGENOUS RIGHTS ISSUES

The Aboriginal and Torres Strait Islander population of Queensland is unevenly distributed throughout the state. In the northern statistical section, which centres on Townsville the Aboriginal population is 7,204 persons. This is made up of 5,505 Aboriginal people and 1699 Torres Strait Islander people. From Cairns to Cape York the total Aboriginal population is 19,121 which includes 11,452 Aboriginal people and 7,669 Torres Strait Islanders. Almost 38% of Aboriginal people and over 60% of all Torres Strait Islanders live in the far northern statistical division yet, of the total Aboriginal population of Queensland, only 22.3% live in the Torres Strait island communities or in mainland communities designated by the Queensland Department of Family Services and Aboriginal and Islander Affairs [67]

The largest populations of Aborigines and Torres Strait Islanders are in communities on Thursday Island, Palm Island and at Yarrabah. Thursday Island is an Aboriginal reserve, part of the Torres Shire (but not Port Kennedy). Palm Island and Yarrabah are the largest Aboriginal communities having direct access to the Great Barrier Reef and are reserve lands. Each of these communities has a representative on the Aboriginal Coordinating Council. ACC members include Wujal, Hope Vale, and Lockhart on the east coast and Umagico, New Mapoon, Injinoo (Cowal Creek) at the tip, as well as other communities in Queensland such as Cherbourg, Woorabinda, Doomadgee, Kowanyama, Pormpuraaw (Edward River), Old Mapoon and Weipa Napranum. The community in Cooktown (Gungarde) is included in deliberations but is not part of the ACC.

In the Torres Strait all Islander communities including Bamaga and Seisa on the tip of Cape York, but excluding Thursday Island, Horn Island, Hammond Island and the Prince of Wales (Muralag) are represented on the Island Coordinating Council. It is the main organisation representing Islanders at Torres Strait Treaty meetings and at federal and state levels. There is little direct interaction between ICC and ACC. Sixteen Aboriginal councils are charged with the management of lands belonging to Aboriginal communities in Queensland (see table 3 and 4). Fourteen of these were constituted as Aboriginal Councils under the Community Services (Aborigines ) Act 1984 and two as Shire Councils under the Local Government (Aboriginal Lands) Act 1978.

While information on customary resource usage is patchy the GBRMPA has funded three important studies of Aboriginal resource use in the marine park and these have provided opportunities for selected indigenous people to contribute to research relating to the management of the GBRMP. There has been a fair amount of Aboriginal site recording and estate mapping, in particular in the far northern section between Shelbourne Bay and Cooktown.

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[67] ABS 1989, *Census 86—Aboriginal and Torres Strait Islander Population in Queensland.*

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

| Community | Population | Area of DOGIT (hectares) | Established | Original Administration | Qld Govt Admin | Major geographic origin of residents |
|---|---|---|---|---|---|---|
| Cherbourg | c.1200 | 3,130 | 1904 | Qld Govt | - | Major receiving centre for removals (SQ, SWQ, Central Coast, SEQ) |
| Woorabinda | c.1400 | 38,811 | 1927 | Qld Govt | - | Major receiving centre for removals (SWQ, Central Q, Central Coast) |
| Palm Island | c.3000 | 7,101 | 1928 | Qld Govt | - | Major receiving centre for removals (all areas) |
| Doomadgee | c.1200 | 178,600 | 1933 | Brethren | 1983 | Local population (NWQ, NE Northern Territory) |
| Yarrabah | c.2000 | 15,609 | 1892 | Anglican | 1960 | Local population and some removals (Cairns area, Fraser Island) |
| Wujalwujal | c.400 | 1,102 | 1957 | Lutheran | - | Local population (Annan and Bloomfield Rivers) |
| Hope Vale | c.800 | 110,000 | 1886 | Lutheran | - | Local population and some removals (Cape Bedford, Cooktown to Laura area) |
| Kowanyama | c.950 | 252,000 | 1905 | Anglican | 1967 | Local population (Mitchell and Gilbert Rivers areas) |
| Pormpuraaw | c.450 | 436,000 | 1939 | Anglican | 1967 | Local population (Holroyd and Coleman Rivers areas) |
| Napranum | c.800 | 200,730 | 1898 | Presbyterian | 1966 | Local population and some removals (NW Cape York Peninsula) |
| Lockhart River | c.450 | 359,685 | 1924 | Anglican | 1967 | Local population (NE Cape York Peninsula) |
| Injinoo | c.420 | 79,542 | 1915 | | c.1949 | Local population (N Cape York Peninsula) |
| New Mapoon | c.200 | 9,390 | c.1962 | Qld Govt | - | Removals from Mapoon (N of Weipa) |
| Umagico | c.200 | 5,340 | c.1963 | Qld Govt | - | Removals from Lockhart River |

Source: Parliamentary Committee of Public Accounts (1991). Financial Administration of Aboriginal and Island Councils, Report 2, Effectiveness of Councils and Support for Councils, Training, PCPA Report No.8, February 1991.

information, which would be forwarded to appropriate scientists. Recommendation accepted and trialed Jan 1987.

- The imposition of any inappropriate or unenforceable restrictions should be avoided.

- GBRMPA/QNPWS should continue and expand their extension/education programmes in Aboriginal communities explaining the need for, purposes of, and effects of the Marine Park.

- GBRMPA/QNPWS should take immediate steps to control illegal trawling activities in the Marine Park 'A' Zone immediately north of Cape Bedford.

- That serious consideration be given to the potential problems of implementing management of turtle hunting.

- Aborigines should be employed as Liaison Officers and Rangers by GBRMPA/QNPWS to work in the Cairns and Far Northern Sections of the Park.

- Continuity of QNPWS Officers and Rangers should be maintained when working with an Aboriginal Community.

- The GBRMPA should undertake to support an anthropological study, or studies, in all the Aboriginal communities adjacent to the Marine Park, aimed at determining how the Aboriginal communities perceive the GBRMPA; and to provide guidelines on how best the GBRMPA/QNPWS can present their aims and aspirations to those communities, so as to prevent confrontationist situations from developing.

- If Coastwatch flights are to be used for monitoring GBRMPA permit conditions, then the Coastwatch observers should be encouraged to record the race of occupants of dinghies and runabouts in the areas adjacent to Aboriginal Trust Areas, and hunting/fishing areas.

- That future ethnobiological studies in Aboriginal communities consider adopting a research strategy concentrating on specific topics in a geographically-broad range of communities.

### 5.2 Smyth 1990

A second study of Aboriginal maritime sites in the Cairns section funded by the Authority was conducted by Dr Dermot Smyth (Smyth 1990). Smyth's study found that:

- Only three sites out of 24 were in the marine park, the rest were in the Queensland marine park. This reinforced the idea that aboriginal exploitation of the reef was limited to inshore waters and some close offshore islands.
- There was little positive reaction among Aboriginal people to the idea of establishing separate Aboriginal hunting and fishing zones.
- Communities were satisfied with current multiple use zonings system, although they were critical of the dugong hunting system and they found the zoning system complex.
- The possibility of establishing Aboriginal management zones was seriously considered by community members The emphasis of each community where the idea was discussed was on involvement in the management of the zone, rather than exclusive use.

- There was a need to establish Aboriginal management zones in areas of the marine park where Aboriginal cultural affiliations persist.
- There was a clear need for interpretive material about the aims and methods employed by the Authority itself, targeted specifically at Aboriginal communities adjacent to the Reef.

### 5.3 Smyth 1992

A third study was also undertaken by Dr Smyth on GBRMPA's behalf in the Far Northern section of the marine park (Smyth 1992). Smyth provided evidence that Aboriginal use of the marine park extended to the outer reef. His evidence included Aboriginal claims extending to the outer barrier reef, art sites on islands close to the outer Barrier reef (e.g. Clack island in the Flinders group), egg collecting sites on cays/islands (e.g. Claremont and Raine island), Aboriginal language names for the sea beyond the outer barrier reef, Aboriginal occupation of offshore islands, and use of double out-rigger sea going canoes.

The Report provides information on cultural sites and their implications for Park management, strategies for further research, Aboriginal concerns with Park management and the implications for Park management of the proposed Queensland Aboriginal Lands Bill and declaration of the Cape York Marine Park. Proposals for the establishment of Aboriginal Management Zones and for formal joint management arrangements are discussed. The Report found that:

- There are Aboriginal individuals and groups who continue to identify with their traditional maritime domain in the Far Northern Section of the Marine Park.
- Primary Aboriginal knowledge, interest and concern relates to the inshore coastal areas, reefs and islands, but there are instances of use and knowledge of resources on the outer reef.
- Aboriginal people along eastern Cape York Peninsula consistently stated that their 'country' (traditional estates) includes all waters, reefs and islands within and including the outer barrier.
- The objectives of the Authority, its management strategies, use of zones etc. are very poorly understood by Aboriginal people with traditional links to the Marine Park.
- There is widespread concern by Aboriginal people consulted about the over-exploitation of fish resources by commercial fishermen, and in certain instances by recreational fishermen.
- There is keen interest among maritime Aboriginal people to be directly involved in management and planning decision-making within the Far Northern Section.
- The traditional Aboriginal maritime estates have been extensively mapped by anthropologists and Aboriginal people from Cooktown to Shelbourne Bay.
- Access by the Authority (or other government conservation agencies) to this anthropological mapping is likely to be linked to the establishment of meaningful Aboriginal involvement in Marine Park management.
- Aboriginal people along eastern Cape York Peninsula are disadvantaged in regards to their access to traditional and economic fisheries as compared to Torres Strait Islanders.
- Aboriginal people are concerned about the social, economic and ecological impact of current Torres Strait Islander fishing and hunting activities within the Marine Park, especially close to Aboriginal settlements and outstations.
- There is currently no adequate forum for Aboriginal and/or Torres Strait Islander concerns about Marine Park management to be discussed.
- The World Heritage Nomination document inadequately represents/documents the Aboriginal cultural dimension of the Marine Park.

- The Marine Park Act undervalues the significance of the Marine Park to Aboriginal people and inadequately provides for their involvement in its management.
- Consultative arrangements involving Torres Strait Islanders in the management of the Torres Strait Protected Zone can provide a first-step model for Aboriginal involvement in Marine Park management in the Far Northern Section.
- There has been inadequate consultation with relevant Aboriginal groups and individuals with regards to the imminent declaration of the Queensland government's Cape York Marine Park.
- There is growing concern amongst Aboriginal people about apparent reduction in availability of some marine resources within the Marine Park.
- Aboriginal aspirations for exclusive commercial exploitation of some marine resources currently exist and are likely to increase.
- There is no feedback to communities from the Consultative Committee.

The Report made a number of key recommendations:

- That the Authority commence as soon as possible consultations and negotiations with Aboriginal maritime groups to further explore -
    - the establishment of a Far Northern Section Aboriginal consultative Committee with the suggested composition of at least two representatives of each of the major language areas, and one representative of the ACC, ICC and CYLC
    - the establishment of Aboriginal Management Areas
    - establishment of Aboriginal Heritage Zones.

- That the Authority investigate the administrative and legal steps necessary to establish Boards of Management to administer Aboriginal Management Areas. In the Far Northern Section the maximum number of maritime areas would be nine and the minimum one.

- That the Authority proceed with the preparation and dissemination of interpretive material re Aboriginal interests in the Marine Park as recommended in Smyth's 1990 report.

- That the design and implementation of further research into the Aboriginal maritime culture in the Marine Park be under meaningful Aboriginal control (e.g. of the FNSACC and subsequently Aboriginal Management Area Boards of Management).

- That the Authority take due cognizance of Aboriginal maritime tenure systems, and other relevant aspects of the cultural, social and economic relationship between indigenous people and the marine environment, in all its planning, management and consultancy activities.

### 5.4 Dugong Management

The Authority has funded a number of studies by Dr Helene Marsh on dugong Management. Marsh found (1992 c):

- That the potential impact of traditional hunting on dugong stock is exacerbated by a number of factors. The current demography of Aboriginal and Islander populations indicates a movement away from areas supporting high dugong populations (Torres Strait and far north Queensland) to areas in the south where dugong stocks are lower.

- This factor is further complicated by the present interpretation of Queensland Fisheries legislation which allows Aborigines and Islanders living in Trust Territories to hunt anywhere in the State and for urban Aborigines and Islanders to hunt providing they are accompanied by a resident of a Trust Territory.
- An assessment of the impact of hunting on dugong is hindered also by the dearth of information on life cycle, reproduction rates and causes of mortality. What is known is that dugong have a slow rate of natural increase. For these reasons there is a need to limit the issuing of permits for areas south of Cooktown.

Marsh recommended:

- The development of an extension program to allow for the participation of Aborigines and Islanders in deciding what should be done about allowing traditional hunting in areas away from Trust Territories.

In a recent paper (1991) Marsh and Saafeld found that:

- At the present time there is insufficient information to be able to confirm whether the present catch rate for dugong in the Torres Strait is below the sustainable level.
- Continued monitoring of catches and aerial surveys are advocated as a means of addressing the paucity of data.
- The need for public education is considered to be important as a way of pre-empting any approaches that may be made for increased catches.

### 5.5 Ziegelbauer Report 1991

Ziegelbauer (through GBRCC) in 1991 pointed out in a paper on behalf of DOGIT communities that the Yarrabah, Hopevale and Wujalwujal communities wished for greater involvement in GBRMP management. He found that:

- It is important and necessary for Governments and GBRMPA to recognise and understand the particular needs and aspirations of the Aboriginal people in relation to use of the Great Barrier Reef Marine Park and that for cultural reasons, their use of the Park is more important than that of others.
- Major Concerns of DOGIT Communities with regard to their use and involvement in the Marine Park related to:
    - The recognition of traditional rights and traditional use made of marine resources.
    - Desire to be involved in the management of the Marine Park and resources so as to have input into the conservation of the various species utilised by Aboriginal people.
    - The impact of other users on resources, which also raises conservation issues for Aboriginal users.

Ziegelbauer's report recommended:

- The GBMCC recommend that representatives from the GBRMPA and the QNPWS visit each of the Aboriginal Communities affected by the Zoning Plan for the Cairns Section to listen to their concerns and discuss with them the Authority's intentions for the proposed new Zoning Plan.

- The GBRCC recommend to the Federal Minister and the Authority the need for legislative recognition of Aboriginal representation on the GBRCC.

- The GBRCC recommend to the Federal Minister and the Authority that they recognise Authorised Officers of DOGIT Community Councils where the relevant by-laws exist, and move to provide them with inspectoral powers under Section 42 and/or Section 43 of the GBRMP Act.

- The GBRCC recommend to the GBRMPA to implement Zones areas as Aboriginal Management Zones adjacent to the DOGIT Lands to be managed with the assistance of the Authorised Officers of those communities.

OTHER RELEVANT REPORTS

Three recent reports are also worth noting in the context of Aboriginal involvement in the marine park. They are a report commissioned by the ESD working group on fisheries; the report of the ESD working group on fisheries; and third a report by Dr Dermot Smyth to the Resource Assessment Commission.

## 5.6 The Cordell Report 1991

*Managing Sea Country: Tenure and Sustainability of Aboriginal and Torres Strait Island Marine Resources* by Dr John Cordell is a study commissioned by the Fisheries Working group on Ecologically Sustainable Development (ESD) to help answer some basic questions regarding the sustainability of fisheries and aquatic resources used by indigenous peoples in Australia.[68] The Report focuses on the kinds of things fisheries and marine protected area authorities ought to know and take into account in planning programs and in forming relationships with indigenous communities.

In recognition of the complex nature of the relationship between indigenous people and their marine domain the report examines fishing-related customs, laws, beliefs and social interaction. While the sense of identification with sea country is as strong as with the land for indigenous people, this relationship is more likely to be ignored by government authorities with an emphasis in law and public policy on the 'common property' nature of the sea and its resources. The communal nature of customary marine tenure (CMT) with its shared responsibilities and obligations, is not easily translated into European institutions and property law. The Report suggests that the establishment of marine parks has reduced rather than enhanced Aboriginal control over marine estates through the failure to recognise this unique relationship between Aboriginal people and their marine environment.

While there has been some movement by marine park managers towards recognising the rights of Aboriginal groups as being more than those of just another 'user group', it is not reflected in public policy or legislation. It is recommended that there must be legislative change, addressed nationally and cooperatively, directed towards recognising the existence of contemporary CMT systems and towards incorporating indigenous marine resource rights into all natural resource management legislation. Legislation would need to be flexible to accommodate differing geographic and cultural conditions.

The Report raises the question as to whether ESD can be adapted to accommodate and reconcile matters of indigenous sea tenure with the country's economic and biodiversity support priorities and finds that there is compelling evidence which suggests that subsistence practices constitute a sound form of resource management. The Report recommends exploring the potential for CMT-based management strategies as an ESD instrument but stops short of

[68] The report remains unpublished and was made available to the author by Dr David Lawrence, GBRMPA.