

grazing. Deprived of most of their sources of protein, many of these peoples were given fishing boats by the government. Needless to say, fish were not the commodity they are today. These peoples, removed from their homelands, having since developed an economic dependence on the generations old fishing practices, contribute significantly to their respective local Aboriginal economies. These same small scale fishers are now caught in an administrative net designed to rationalise the industry. Unfortunately the rationalisation tends to favour the larger operators in the allocation of licenses.

It can be argued, in NSW at least, that because reliance by Indigenous peoples upon the marine resources was promoted and encouraged by the government, both for commercial and domestic use, it is now inequitable and unjust to exclude Aboriginal people from the industry or to regulate access for non-commercial purposes through the use of recreational fishing licenses. It can be argued, in fact, that the principles of social equity would demand that Aboriginal people are entitled to a larger share of the recreational and commercial take. In amendments to the *Fisheries Management Act 1994* (NSW), in November 2000, this argument was accepted by most of the NSW Legislative Council, a notable exclusion being David Oldfield of the One Nation Party.

These rights are not supportable within the native title context unless within the concept of contingent rights. It is not inconceivable that a traditional owner group faced with the invasion of peoples from surrounding country extended to some or all of those people, whether expressly or impliedly, the right to fish on those lands for the benefit of the new community as it were.

That digression aside the fight for what is socially just and correct can continue, not only parallel to the native title process, but in spite of it. For it seems that giving things to Indigenous peoples in recognition of past injustices is more palatable than acknowledging rights specifically grounded in present ownership. Strategically it is important

for the sea rights movement to establish the right to fish for commercial purposes.

We must all remember the native title is the tool not the finished product.

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### **Indigenous rights to water**

News from ATSIC by Paul Sheiner.

ATSIC has entered into a partnership with Lingiari Foundation, an independent Indigenous organisation chaired by Pat Dodson, to develop a draft national ATSIC policy on Indigenous rights to waters. Waters for the purpose of the project includes both offshore (seas and oceans) and onshore waters (rivers, lakes, and the like) including artesian and underground waters.

ATSIC initiated the process for a number of reasons including:

1. the increasing focus of government on water related issues which impact upon Indigenous rights – for example, the COAG water reform agenda, the National Oceans Policy, and the like; and,
2. the ATSIC elected arm and other Indigenous representatives are attending an increasing number of water-related forums and committees without a common agenda, standards or protocols.

It is hoped that a national ATSIC water rights policy will provide a set of standards on Indigenous rights to waters which Indigenous representatives can use in various forums.

In order to develop the policy ATSIC and Lingiari have published the set of briefing papers, and the two discussion booklets (onshore waters and offshore waters). These documents are being circulated by regional and state ATSIC offices and copies have been sent to all representative bodies. The documents have been published to promote discussion and generate feedback from Aboriginal and Torres Strait Islander people, communities and organisations. This feedback should be directed to regional or state ATSIC policy officers in each state and territory by 5 April 2002.

As part of the project an Indigenous rights to waters think tank will be held in March.

It is intended that the project will produce a draft policy that will be considered by the ATSIC Board in June 2002.

Copies of the project materials can be downloaded at <[www.atsic.gov.au](http://www.atsic.gov.au)> (click on the 'What's New' link and find the rights to water project).

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### **Capacity building for Native Title Representative Bodies (NTRBs): ATSIC fact sheet 6/2001**

The 2001-2002 Federal Budget provides additional funding of \$17.4 million to ATSIC as its allocation, out of a total of \$86.0m, over the next four years for the Commonwealth's native title system to facilitate the recognition and protection of native title in accordance with the *Native Title Act 1993* (Cth).

A total of \$11.4m of the additional funding is to be provided to ATSIC to enhance the service delivery capacity of NTRBs, that is, capacity building.

#### *ATSIC Guiding Principles*

The ATSIC Board of Commissioners at their 73rd meeting endorsed a number of guiding principles for progression of the program, these are:

- the capacity building program is based on a partnership between ATSIC and NTRBs nationally, and is to be applied over a four year period starting 1 January 2002;
- a framework agreement is to be developed, including objectives, strategies and projects funded under the program; and,
- final assent for the partnership and details about the capacity building project is to be an outcome from the NTRB Leaders Forum 2001.

#### *NTRB Partnership*

The terms of the additional funding from Government requires the ATSIC Native Title & Land Rights Centre to coordinate and deliver the program, rather than to directly provide funds to NTRBs on an individual basis.

In light of this requirement ATSIC in partnership with all NTRBs has developed a National Framework Agreement to govern the operation of the program. In particular the Framework Agreement is intended to settle key initiatives and establish a formal process for the implementation of the program.

#### *NTRB Leaders Forum 2001*

The NTRB Leaders Forum 2001 endorsed the following major capacity building priorities as areas for the capacity building program to target:

- corporate and cultural governance;
- management and staff development;
- information technology;
- native title technical training;
- collaborative relationships and research;
- applied capacity building; and,
- building effective relationships with NTRBs and ATSIC.

#### *Current Projects*

To date a number of key capacity building projects have already been completed, including:

- development and production of Native Title Services Guide on CD Rom;
- development and launch of <[www.ntrb.net](http://www.ntrb.net)> web page to enhance communication and networking opportunities between NTRBs;
- NTRB Leaders Forum 2001; and,
- creation of NTRB – CEO capacity building reference group to assist with implementation and monitoring of national capacity building program.