

December 2004

Guidelines for involving Aboriginal and Torres Strait Islander peoples in the establishment of Natural Resource Management Bodies



Note: These guidelines have been developed to assist Regional Coordination Groups and Regional NRM bodies about who to involve, how to involve and the depth and breadth of interests that may need to be addressed.

It is imperative that the Traditional Owners in each region decide how to engage in the development of the Regional NRM Plan and associated Investment Plan and in deciding representation on the Regional NRM body.

An investment of time, people and resources will be necessary to support this process.

1. Aboriginal and Torres Strait Islander partnerships

1.1 Introduction

These Guidelines have been written to assist Regional NRM bodies and contracted consultants to establish partnerships with Aboriginal and Torres Strait Islander peoples in the development and implementation of the Regional NRM Plan and in participating in the regional body. These Guidelines should be read in conjunction with the overall NRM guidelines, which outlines the process for developing the Regional NRM Plan, and the Social and Economic bridging document; which outlines the incorporation of social and economic assessment in the Regional NRM Plan. This document is only a guide and involvement will need to be negotiated in each region with Aboriginal and Torres Strait Islander peoples.

The first section outlines that Traditional Owners speak for country and the potential for regional level land and sea management agencies to facilitate effective Traditional Owner input into regional natural resource management. The second section outlines the possible depth and breadth of interests and issues, which may arise during the development of the Regional Plan and possible processes for effective Aboriginal and Torres Strait Islander input into the development of the Regional NRM Plan.

Outlined here is an integrated approach. It may not be possible to undertake all aspects of Aboriginal and Torres Strait Islander peoples' rights and interests in natural resource management planning in the initial Regional NRM Plan. Identified priorities of Traditional Owners in your region can be outlined as key actions for further development in implementing the Regional NRM Plan.

1.2 Aboriginal & Torres Strait Islander peoples are residents in regions

All Aboriginal and Torres Strait Islander residents in a region, whether Traditional Owners or not, have the same interests as any other resident. Their views can be incorporated into the plans including being invited to be involved in the development of the plan and being able to comment on the draft. The Regional NRM body may need to make special effort to involve Aboriginal and Torres Strait Islander peoples in culturally appropriate ways.

In Deed of Grant in Trust (DOGIT) areas, Community Councils may still be the Trustee of the land. Residents in these areas are either Traditional Owners or historical associates (who are people whose traditional lands are elsewhere but who were moved into these old mission areas). In DOGIT areas partnerships are often established between Traditional Owners and the Community Council.

1.3 Involving Traditional Owners

In land and sea matters, including natural resource management (NRM), Traditional Owners speak for country. Some Traditional Owners do not always live on or near their traditional lands. Not every Traditional Owner will need to be involved in plan development or other key initiatives but it may be necessary to fund the costs of key Traditional Owners who live outside the region who have personal or family responsibilities in relation to the land or seas. Traditional Owners who need to be brought in for key meetings will be identified during the process.

The Queensland and Commonwealth Governments will require Regional Bodies to undertake effective engagement with Traditional Owners. Consultation with Aboriginal and Torres Strait Islander communities should commence in the early stages of the plans and not be developed once everyone else has had their say. It is widely recognised that effective

engagement with Traditional Owners is difficult to achieve because of disputes between families and Traditional Owner groups and the lack of experience in facilitating an inclusive process. The Department of Aboriginal and Torres Strait Islander Policy (DATSIP) publications 'mina mir lo ailan mun: Proper Communication with Torres Strait Islander people' and Protocols for Consultation and Negotiation with Aboriginal People' have more detail about effective and culturally appropriate consultations. The website for the protocol document is www.indigenous.qld.gov.au.

The Primary Industries Ministerial Council and the Natural Resource Management Ministerial Council has developed National Best Practice Framework and Guidelines for Advancing Reconciliation in 2002. This document outlines the principles for establishing partnerships between Government and Aboriginal and Torres Strait Islander peoples. This document will be put on the Department of Primary Industries web site in the near future. The website is: www.dpi.qld.gov.au.

Indigenous facilitators or coordinators are now employed in nearly all NHT regions. These facilitators can assist in developing the process for Aboriginal or Torres Strait Islander engagement and coordinating Traditional Owner meetings in your region. Those regions without an Indigenous coordinator should consider the funding of a regional Indigenous coordinator position as a critical component of their regional coordination and facilitation requirements in the future.

Regional NRM bodies can partner Traditional Owners to develop an appropriate Foundation Funding bid that will assist in appropriate involvement in the development of the Regional NRM Plan. Holding large meetings, workshops and even smaller gatherings is resource intensive, and will often require Traditional Owners to travel some distance to attend meetings. Whilst most Traditional Owners are happy to volunteer their time to be part of a community process and see involvement as part of their cultural responsibilities, it will be necessary to budget for reimbursing reasonable costs of travel, accommodation, catering and other incidentals. However, where Traditional Owners are called upon to perform duties or to hold office for the Regional Body, then they should be remunerated for their efforts.

1.4 Links to the Ten Year Partnership

The major Queensland Government initiative of *Towards a Ten Year Partnership with Aboriginal and Torres Strait Peoples* has resulted in a draft Land, Natural Resources and Cultural Heritage Agreement, '*Looking After Country Together*'. The three key outcomes, which are the focus of the Agreement, are:

1. Increased Indigenous access to land and sea country
2. Stronger Indigenous involvement in planning and management of land and sea country
3. Stronger Indigenous involvement in and influence on broader natural resource planning and policy development

The draft Agreement is attempting to establish effective Aboriginal and Torres Strait Islander involvement in regional arrangements. Aboriginal and Torres Strait Islander partnerships are an important element of healthy regional arrangements. The draft Agreement is available on the NR&M website. The NR&M web site is cross-linked with the EPA website. The document can be accessed through www.nrm.qld.gov.au.

1.5 Land and Sea Management Groups

A key strategy of the 10 Year Partnership draft agreement is the establishment of land and sea management groups. *Looking After Country Together* includes having strong

community-driven land and sea management groups at the relevant regional, sub-regional or local level.

Such groups are critical for Aboriginal and Torres Strait Islander peoples to negotiate their interests in broader planning and management of land and sea country. It is important to stress that these groups are increasingly emerging from communities themselves. They are community conceived, owned and driven and are not being established by government as a mechanism for policy delivery. The consequent challenge for government and Regional NRM bodies is to organise its planning and service arrangements to enhance the health and long-term viability of these groups to maximise their intended outcomes. The specific roles and objectives of these land and sea management groups have varied in response to the priorities of the local communities.

The emergence of such groups is a growing trend within Indigenous communities. To be successful, these groups need to be initiated and authorised at the community level and developed through grass-roots Indigenous action. They need to build a mandate for operation from their constituent Traditional Owner (and possibly historical associate) groups, preserve and apply traditional knowledge as well as build the technical skills needed for contemporary management of land and sea country. To be effective, these groups also need to be able to be willing to work in partnership with regional NRM bodies and State government agencies, ATSIC and service delivery bodies such as Native Title Representative Bodies (NTRBs), the Indigenous Land Corporation (ILC) and other government resource managers.

It is critical for Regional NRM bodies to establish effective communication with Traditional Owners. Support for an existing land and sea management agency or a proposal from Traditional Owners to establish one would be a key mechanism to coordinate Traditional Owner input.

Not all regions have land and sea management groups established at the regional level. In some regions, Traditional Owner groups may not want to establish such an organisation in the near future

After negotiations with Traditional Owners the regional NRM body can seek adequate funds in the Regional Investment Strategy for capacity building and support for regional level land and sea management groups and ongoing funds for regional level Indigenous co-ordinators and facilitators.

1.6 Cape York Peninsula

Cape York participation in NHT2 has been incorporated into the review of Cape York Heads of Agreement currently being undertaken by the Commonwealth and Queensland governments in partnership with key interests including Aboriginal peoples. In Queensland, Cape York Partnerships and the Meeting Challenges and Making Choices initiative is also linked to Aboriginal interests in land and natural resource management.

The review will decide whether a new Regional NRM Plan will be developed or if a predominately non-Government Regional structure established for NHT2.

1.7 Torres Strait

The Torres Strait through the Bilateral will become an NHT region. The institutional arrangements for the Trust will be integrated with existing regional arrangements including the Torres Strait Regional Authority, the Island Coordinating Council and the Torres Strait

Treaty Environment Management Committee. The Bilateral will also recognise there are significant programs and projects already in place in relation to the marine resources. International issues will continue to be addressed through the Torres Strait Treaty between the Australian and Papua New Guinea Governments.

2. Aboriginal and Torres Strait Islander interests in natural resource management

Aboriginal and Torres Strait Islander peoples have extensive interests in natural resource management. These interests include:

- Traditional custodians of land and seas;
- Culture, including cultural heritage;
- Social interests;
- Economic interests; and
- Environmental interests.

2.1 Traditional custodians of land and seas

Aboriginal and Torres Strait Islander peoples are the traditional custodians of all lands and seas in Queensland. These customary rights are recognised through a number of international covenants including:

- *International Convention on the Elimination of all Forms of Racial Discrimination 1975;*
- *International Covenant on Civil and Political Rights 1966;*
- *International Covenant on Economic, Social and Cultural Rights 1966;*
- *International Convention on Biodiversity 1992; and*
- *Convention for the Protection of the World Cultural and Natural Heritage.*

Numerous Commonwealth and Queensland Government, laws, plans and strategies also recognise Aboriginal and Torres Strait Islander peoples' traditional responsibilities to the land and seas. The *Legislative Standards Act 1992* outlines the 'fundamental legislative principles'. Section 4(3)(j) states:

Whether legislation has sufficient regard to rights and liberties of individuals depends on whether, for example, the legislation has sufficient regard to Aboriginal tradition and Islander custom.

Aboriginal and Torres Strait Islander peoples may have a particular interest as landowners or through native title rights by:

- Being a private freehold landowner or leaseholder;
- Having land returned through the *Aboriginal Land Act 1991* and the *Torres Strait Islander Land Act 1991*. Through these Queensland laws Aboriginal Deed of Grant in Trust (DOGITs) and Aboriginal Reserves are transferable lands. Other lands such as Unallocated State lands and National Parks are also potentially claimable when gazetted.
- Native title through the Native Title Act 1993 (Cth) which details procedures for dealing with native title. Registered native title claimants have rights to be consulted about natural resource management programs and projects and native title holders should be treated in the same way as owners of freehold land. A map of all current native title claims in Queensland can be accessed at the National Native Title Tribunal's website: http://www.nntt.gov.au/publications/state_maps.html.

- Aboriginal and Torres Strait Islander peoples can buy land through the land acquisition program of the Indigenous Land Corporation. Previously, ATSIC was funded to acquire land for Aboriginal and Torres Strait Islander peoples.

Along the coast saltwater peoples are the traditional custodians of the seas including the coast, islands and reefs.

The compiling of land rights and interests and the Traditional Owner groups who are responsible within the region will be relevant to the Regional NRM Plan.

2.2 Cultural interests

2.2.1 Culture

There is a direct relationship between Aboriginal and Torres Strait Islander cultures and the land and seas. You cannot separate one from the other. While areas and objects of cultural heritage are well known, other aspects of culture such as Aboriginal language, dance, art and lore relate directly to the land and/or the seas. Any of these aspects may be important for people in relation to natural resource management and enhance NRM projects within the region.

It is also important in the plan development to understand traditional links to land and seas and how those traditions operate in a contemporary context. However, Traditional Owners may not want some or all of the information publicly available as a way of protecting intellectual and cultural property. For example, there may be traditional information about species passed on through dance or art, which could inform Management Plan for that species.

2.2.2 Cultural Heritage

There are both Queensland and Commonwealth Government laws, which protect cultural heritage. They are:

- *Australian Heritage Commission Act (Cth)*;
- *The Aboriginal and Torres Strait Islander Heritage Protection Act 1994 (Cth)**;
- *The Cultural Record (Landscapes Queensland and Queensland Estate) Act 1987**.

New Queensland legislation is proposed in the near future. Protection and management of cultural heritage should be consistent with these laws.

The protection and active management of cultural heritage is important to all Traditional Owner groups. There are numerous types of areas of cultural significance including:

- archaeological sites such as middens, camps etc.;
- storylines;
- tradeways; and
- traditional lore.

Traditional Owners may seek the incorporation of cultural heritage mapping, protection and management within the Regional Plan. Regional NRM bodies should ensure adequate engagement with Traditional Owners about potential impacts on cultural heritage or any other interest of proposals for actions and strategies in NRM plan

* Under review

There is very limited information about areas of cultural significance registered with either the Queensland or Commonwealth Governments and much of it is only archaeological information. It is recognised that the mapping of all areas of cultural significance for a whole region may be extremely expensive and would have to be undertaken over a number of years. Traditional Owners can advise on what kind of mapping and active management of areas of cultural significance needs to be proactively undertaken.

Protection of cultural heritage will also be important in relation to future NRM projects funded within the region.

Historical cultural heritage since the arrival of non-Aboriginal and Torres Strait Islander peoples in Australia may also come to light in the development of the Regional NRM Plan. These sites may be relevant to all local Aboriginal or Torres Strait Islander peoples and not just Traditional Owners. These sites are recorded through the general *Heritage Protection Act 1990* and not the laws specifically relating to traditional cultural heritage. Examples include fringe settlements on the outskirts of towns, massacre sites or old missions.

2.3 Social interests

In developing the Regional NRM Plan, an Aboriginal and Torres Strait Islander socio-demographic profile can be undertaken. Information should include, but not be limited to, the number of residents, life expectancy, criminal justice rates, education levels, poverty levels, home ownership and number of people per household. The data set should be complimentary to the broader data set required for the social assessment in the Regional NRM Plan and should inform the priority setting from an Indigenous perspective. For example, a priority in a region may be a land management problem relating to weeds and pests. The social profile may show that ½ the Aboriginal population in the region is less than 20 years old and that there is a high contact with the juvenile justice system. Aboriginal landowners may seek project funding to address weeds and pests which links to a training project for youths at risk in the area.

If supported by Traditional Owners, the plan can also include a section on relationships internally between Aboriginal or Torres Strait Islander groups and between Aboriginal and Torres Strait Islander peoples and the rest of society. This section should outline the history of those relationships and issues within a contemporary context. For example, this research may highlight a long-standing dispute between groups or with another section of society which could be recognised and worked through as a first step in establishing partnerships.

2.4 Economic interests

The Regional NRM Plan can include an economic profile of Aboriginal and Torres Strait Islander people living in the region. Information should include, but not be limited to, the employment rate, unemployment rate, Community Development Employment Program (CDEP) employment, individual income and family income. The plan should outline current Indigenous economic activity and list the key aspirations of Aboriginal and Torres Strait Islander peoples in relation to economic development including economic enterprises, joint ventures and employment. The data set should be complimentary to the broader data set required for the economic assessment in the Regional NRM Plan and should inform the priority setting from an Indigenous perspective. For example, the unemployment rate could be extremely high and a future priority could be Indigenous employment in natural resource management where possible or if a CDEP program is already operating in a region it may be possible to develop a partnership to undertake an NHT project with CDEP participants.

In many parts of Queensland a traditional and subsistence economy still operates and it could be a priority in a region to measure this. This includes the bartering of goods and services and activities such as hunting and fishing. There has been very little research to date about the value of the traditional economy in places like Cape York, the Torres Strait and the Gulf. For example hunting and fishing within a traditional economy could still be an important protein source where other options are limited and expensive. This could impact on the development and implementation of a management plan for an endangered species eg dugong, turtle.

2.5 Environmental interests

The natural environment is interpreted and managed in a different way through Aboriginal and Torres Strait Islander traditions. There is a wealth of knowledge about landscapes and species within Traditional Owner groups. This information should be included in the Regional NRM Plan but once again approval from Traditional Owners would be required before that information could be publicly available.

There are also contemporary environmental issues, which are generally the same as the rest of society. Examples include vegetation clearing, weeds and feral animal control and pollution.

Discussions can be held with Traditional Owners about how their traditional relationship to land and seas, including natural resources as well as contemporary issues and aspirations of Aboriginal and Torres Strait Islander peoples in relation to environmental interests should be incorporated into the Regional NRM plan.

2.6 Process for integrating Aboriginal and Torres Strait Islander content into the Regional NRM Plan

Traditional Owners within a region may decide they need an Aboriginal¹ Regional NRM Plan which is integrated into the broader Regional NRM Plan or may decide to be involved in the broader Regional NRM Plan from its inception. In either process there must be integration of issues, aspirations and priorities within the Regional NRM Plan. It is also important that Traditional Owner are involved in negotiations around developing and finalising the Regional NRM Plan with other interested parties in the region.

The Regional NRM bodies should have discussions with Traditional Owners about the most appropriate way for their interests to be addressed in the Regional NRM Plan. Involvement should be done early and incorporated into the Foundation Funding bid.

3. Membership of Regional NRM body

The Torres Strait will be established as an NRM region in Queensland. Torres Strait Islander membership, and other interested parties, will be progressed in the Torres Strait.

In the rest of Queensland, there will be a requirement for appropriate Aboriginal representation on regional NRM bodies. History has shown that one Indigenous representative on a regional structure has not worked well. This has been in part because of a lack of support for communication from the representative to the Traditional Owner groups. The aspirations of the Traditional Owners will differ from region to region. However, effective engagement through Traditional Owners sub-committees and/or appropriate representation on the regional NRM bodies would be a minimum requirement.

¹ The Torres Strait will become an nrm region for the proposed NHT2

Sufficient support will be required for the Aboriginal members of the regional NRM bodies and/or any other structures established. This will include funds for an effective communication loop between Traditional Owner groups and their representatives and specific capacity building projects to improve the capacity of Traditional Owners to be involved in strategic decision making. A land and sea management agency and/or Aboriginal and Torres Strait Islander facilitators or coordinators could undertake this critical role.