Articles:

Caught Hook, Line & Sinker

Scott HAWKINS – is a descendent of the Ngemba people of North West NSW. He has a BA/LLB from the University of Sydney and at the time of writing this report was a Policy Officer with the NSW Aboriginal Justice Advisory Council.

This paper has been developed to raise discussion and awareness concerning traditional Aboriginal fishing rights and practices, and the consequences and implications under the *Fisheries Management Act 1994*. Furthermore, the paper will provide recommendations, in particular law reform, policy and program direction.

The Recognition and Protection of Aboriginal Interests in NSW Rivers

Jason BEHRENDT – is a solicitor employed by Chalk & Fitzgerald, Lawyers and Consultants.

and Peter THOMPSON – is a researcher of land and heritage issues. He lives at Coonabarabran, NSW.

Aboriginal interests in river systems manifest themselves in a variety of ways that reflect traditional and contemporary relationships to country. Despite the importance of river systems to them, Aboriginal people have historically been marginalised from decision making about rivers. In dealing with Aboriginal interests in land and waters the legal system in NSW does not start from the premise that landscapes are imbued with Aboriginal cultures. Instead, it characterises rights and interests on its own terms and in a manner that is consistent with western legal traditions. Aboriginal relationships to country are necessarily fragmented as a result. This is as true for the common law recognition of Aboriginal rights as it is for attempts to recognise and protect those interests in legislation.

The need to recognise and protect Aboriginal interests in river systems arises as a matter of necessity under Australia’s international human rights obligations. Those rights include the right to self-determination, freedom from discrimination and rights to enjoy cultural heritage. It is also a social justice issue. The lack of protection of Aboriginal interests in river systems requires further action.

This paper makes a number of recommendations, summarised below, aimed at addressing some of the inequities that have arisen from the failure of the non-Aboriginal society to adequately recognise and protect Aboriginal interests in NSW river systems.
Aboriginal Peoples and Oceans Policy in Australia – an Indigenous Perspective

Rodney DILLON – is an Aboriginal man from Tasmania and is currently a Commissioner of the Aboriginal and Torres Strait Islander Commission.

In a recent publication on Aboriginal customary marine tenure, it was noted that even in the field of anthropology, Aboriginal relationships to the sea have been misunderstood and neglected in a manner which “has resulted in the indigenous relationship to the sea being seen only in terms of resource usage and in the many and complex indigenous systems of near-shore marine tenure worldwide becoming invisible.” One of the reasons proffered for this ‘blind spot’ was the manner in which western relationships to the sea, including views that the seas were open to all, blinkered the way in which indigenous cultures were understood.

This ‘invisibility’ has been more than just a ‘blind spot’ in the field of anthropology. It has been a matter of great convenience to governments and industry groups who, by ignoring Aboriginal interests in marine environments, have been able to exploit the resources that we have always managed. It has also served to deny us a right to make a livelihood from those resources.

While the myth of invisibility is being increasingly dispelled, the desire of governments and industry to continue to reap the benefits of that historical injustice remains largely unchanged. Despite being the subject of numerous reports and policy statements espousing principles of increased participation in both resource management and industry participation, tangible benefits for Aboriginal people have yet to be realised.

The Oceans Policy was released on 23 December 1998. The extent to which the Australian Oceans Policy can deliver outcomes where previous reports and policies have failed remains to be seen but current indications are that it will be unlikely to deliver real change to how Indigenous interests are recognised and protected.