

Workshop Summary - UTS Indigenous Working Group

Summary of a workshop to establish an Indigenous advisory or working group, as part of the UTS project “Development of an Indigenous Engagement Strategy for fisheries with a focus on the Commonwealth” - FRDC Project # 2021-024.

Meeting held 7th- 8th February, 2023
Indigenous Land and Sea Corporation offices, Adelaide

Indigenous participants:

- Frank Parriman, Waardi Indigenous Corporation, Broome
- Brendan Cardona, Aboriginal Sea Company, Darwin
- Rohan Henry, Independent consultant, Victoria
- Ricky Archer, NAILSMA Darwin
- Delahay Miller, ILSC, Adelaide
- Mibu Fischer, CSIRO Brisbane
- Kenny Bedford, My Pathway, Torres Strait
- Dion Creek, Cape York Land Council, Cairns
- Robert Chewyings, Independent advisor, South Coast NSW.
- Stephan Schnierer, Independent consultant, NSW
- Daryle Rigney, South Australia
- Rodney Dillon, Tasmania (afternoon day 1 only)
- Klynton Wanganeen, South Australia (afternoon day 1 only)
- Derek Walker, South Australia (afternoon day 1 only)

Non-indigenous support persons and observers

- Eva Plaganyi, CSIRO Brisbane (scientific advisor)
- Chris Calogeras, Former co-ordinator of FRDC Indigenous Reference Group (afternoon day 1 only)
- Nick McClean, UTS (facilitator)
- Steve Hemming, UTS
- Craig Longman, UTS (Morning Day 1 only)

1. Indigenous connections to country and offshore waters

IWG participants asserted very clearly and at the outset, the ongoing, inherent and holistic connection to Country that exists among Indigenous groups, and that this connection extends from the land, through inshore waters and into the offshore zone. Connections to the offshore zone are built on a philosophical understanding of Country as an interconnected and holistic entity, which encompasses land, water and people, and does not recognise colonial legal boundaries such as the 3NM limit.

The following examples of tangible connections to offshore areas were provided by IWG participants:

- The existence of cultural stories that connect communities to offshore waters, including journeys of ancestors, and the existence of known cultural or sacred sites in offshore areas.
- The knowledge that ancestors previously lived on areas that are now inundated by the ocean. On this basis some IWG participants asserted their connection to Country extends out to the edge of the continental shelf.

- The cultural and economic importance of species that travel through coastal and offshore waters. Examples include migratory species such as turtles, birds, sharks, species whose population range extends across inshore and offshore waters, or offshore species for whom a key stage in their life cycle is spent in inshore or intertidal areas.
- The existence of trade relations and routes between Indigenous groups, and between Indigenous groups and Indonesia, that involve traversing offshore waters, and/or sharing in cultural products that are reliant on offshore waters to be produced.

Responsibility for governance

It was strongly asserted by a number of IWG participants that connection to Country confers on each of them a responsibility in relation to governance. This leads to the view that Indigenous groups have a responsibility to participate in governance and decision-making processes that impact on their Country, and specifically in this case, governance processes for offshore ecosystems and fisheries that they are connected to.

Initial identification of rights and interests

Right to participate in management and decision-making

When considered in the context of a government led process of decision-making on these issues, IWG participants strongly asserted that ‘responsibility for governance’ translates into a right to a seat at the table, and a say in how offshore fisheries are managed.

Statutory rights recognised in offshore areas

Including but not limited to recognised under native title rights legislation (such as those recognised in Akiba 2013) and those recognised under state land rights and cultural heritage legislation, such as the Blue Mud Bay decision in NT.

Fishing rights

Including but not limited to

- The right to protection and maintenance of cultural fishing and associated Indigenous fishing knowledge (IFK), including for species that may be impacted by offshore fisheries.
- The right to benefit economically from offshore fisheries and aquaculture development.

Culturally significant areas in the offshore zone

Including but not limited to those recognised in various state legislation on cultural heritage.

2. History of Indigenous engagement in fisheries and marine issues

IWG participants discussed widely the problematic history of engagement of Indigenous groups in Commonwealth marine and fisheries processes.

A general lack of trust among Indigenous groups with respect to engaging in government processes was noted, and the IWG participants identified that consultation in marine and coastal areas that has not led to meaningful changes has been occurring for as long as 30 years. It is important to note that despite this IWG participants expressed a strong desire to have connections to Country recognised by the government, and for this to form the basis of collaborative relations. The fisheries space is no exception to this.

At this stage, there is a reticence from Indigenous leaders and experts to participate in processes that cover this territory, without a clear sense that:

- Government are genuinely committed to implementing an engagement strategy that meet both the needs of government and Indigenous rights holders.
- Government will seek to co-ordinate efforts across agencies and departments to ensure that very similar conversations and consultations around oceans/marine management and Sea Country connections are not repeated un-necessarily.

3. Discussion of an ‘Indigenous Fisheries advisory/reference group’ (IFA/RG) for Commonwealth fisheries as one aspect of a wider engagement strategy

IWG participants discussed widely the idea that an expertise-based ‘Indigenous fisheries reference or advisory group’ might be needed for Commonwealth fisheries. The IWG participants were informed of the upcoming Commonwealth Harvest Strategy and Bycatch Policy reviews which are seeking input from Indigenous groups. The following clear points of advice were noted.

- Input from the current Indigenous Working Group into the UTS project or into current policy reviews, or advice from any future Indigenous Fisheries advisory/reference group that may be established, is not a “one stop shop”, cannot be a substitute for broad consultation processes with Indigenous groups, and cannot provide a formal representative function.
- There is no “one size fits all” approach to consultation, and there is not likely to be a straightforward ‘template’ for consultation that would be effective across all communities who may have an interest in Commonwealth waters of relevance to the reviews. In some communities, recent native title determinations over sea country, and ongoing Native Title claims that cover sea country, mean that direct engagement with PBCs, land councils or native title applicants is viewed as an essential aspect of effective engagement in these cases. In other communities, fisheries business development, development of representative structures, regional authorities, and brokering of broad alliances across Indigenous groups is occurring, and development of Indigenous Protected Areas (IPAs) is ongoing. In some cases, these have been the leading edge in advancing activities on sea country. In such cases these groups may be the most appropriate initial points of contact for a consultation or engagement process.
- The IWG participants noted that establishment of advisory/reference groups as part of a wider engagement strategy requires a substantial amount of time, effort, and sharing of expertise and IP by Indigenous participants to have a meaningful role and not cut across the legitimate participation of Indigenous communities and organisations in fisheries management processes. Improving on the existing Statement of Commitment from agencies to include specific and concrete support for implementation of an engagement/advisory mechanism for an initial period is seen as important show of good faith, to support the continued investment and active participation of the IWG participants for the remainder of the UTS project.

4. Role of the UTS Indigenous Working Group for remainder of the project

The UTS Indigenous Working Group could potentially provide guidance and/or support to the project and the wider policy reviews in the following ways.

- Establishing a technical sub-group to generate focused input into the current Cth Policy reviews.
- Support development of case studies with communities/organisations to illustrate the nature of interests, and relevant engagement approaches. This would not preclude development of case studies and community workshops by UTS independent of the IWG, if that is the preference of regional and local organisations and communities.
- Participate in co-design of an 'Indigenous Advisory/Reference Group' for Commonwealth fisheries as one aspect of a wider engagement strategy.