

## **Initiating a Native Title Claim**

Native title claims are made by Aboriginal and Torres Strait Islander groups to the Federal Court of Australia. The National Native Title Tribunal also plays a role in the native title process. Industry is not seeking to diminish the rights of Indigenous peoples. Our involvement in Native Title applications is to ensure that commercial fishers do not lose their fishing rights or access to seafood stocks.

Commercial fishers need to stay actively involved in Native Title claims to ensure that adverse determinations are not made by the Federal Court, either by agreement with the State or following a contested hearing before the Court. The Native Title Act provides for persons whose interests may be affected by a native title claim to become a respondent party to the claim to ensure that their interests are not adversely affected. We need to exercise that right to protect our rights.

Our ongoing participation in native title claims over the last 20 years has resulting in there being no native title determinations which have adversely affected the industry.

What the QSIA needs from industry:

1. Your involvement as claims are lodged;
2. There is no cost in participating; and
3. Protecting your rights to access seafood stocks.

## **Native Title Process**

The process begins with a claim lodged by an Indigenous group in the Federal Court. The claim is “registration tested” by the National Native Title Tribunal. If the claim is registered then the indigenous claimants will have a number of important rights. The most important is the “right to negotiate”, particularly with the mining and oil and gas industries in respect of new projects.

Following the completion of the registration testing stage, the public is notified and a 90-day period is provided for interested persons to identify their concerns and to notify the Federal Court if they wish to become a party to the claim. During the 90-day period, commercial fishers who notify the Court become parties to the native title claim “as of right”. Should an interested person miss the 90-day window, there is still an opportunity to make an application to the Federal Court to be joined as a party. However, this application is much more difficult and expensive. It involves a hearing before the Federal Court and joinder depends on the discretion of the Federal Court Judge. In practice, indigenous groups often oppose the joinder of commercial fishers as parties to “their” native title claim.

Once we at QSIA have identified the commercial fishers whose commercial fishing entitlements may be affected by a native title claim, details are forwarded to our legal

representative working for the Attorney-General's Department, Peter Gore of Gore and Associates Lawyers, Brisbane. Peter has been acting for the QSIA for the last 20 years. He regularly appears before the Federal Court of Australia to represent commercial fishers in native title claims. Peter appeared for the industry before the Full Court of the High Court of Australia on the hearing of the appeal in the Torres Strait Regional Seas Claim in February, 2013.

For more information regarding native title please contact the office at [eo@qsia.com.au](mailto:eo@qsia.com.au).