



MARCH 2024

# FIRST NATION CONSIDERATIONS FOR REGENERATIVE AQUACULTURE ON THE NSW SOUTH COAST



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This project was successful in securing funds from the NSW Government.

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#### CITATION

Voyer, M, Boehme, T., Solitei, M., Croft, F., First Nation considerations for regenerative aquaculture on the NSW South Coast. Report to the Department of Regional NSW.



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## Summary

**There is significant capacity and opportunity to develop a culturally sensitive and inclusive regenerative aquaculture industry on the NSW South Coast. This report examines how Aboriginal cultural values, rights and interests can be protected, enhanced, or prioritised as this new industry develops.**

As part of this project, we spoke with a number of First Nation organisations and individuals on the NSW South Coast. These included two Local Aboriginal Land Councils (LALCs), one Aboriginal business, two Aboriginal Corporations and a workshop attended by over thirty Aboriginal community members from Yuin and Dharawal country.

**The first step towards ensuring an inclusive regenerative aquaculture industry is ensuring that cultural rights are protected. Based on our discussions and research findings, we propose the following opportunities for building Australia's first Aboriginal regenerative aquaculture industry.**

- 1. We recommend that First Nation organisations, the NSW Government, industry, and other relevant stakeholders work together to co-design a strategic plan for First Nation involvement and leadership in a South Coast regenerative aquaculture industry.**
- 2. We propose the establishment of Aboriginal aquaculture development areas along the NSW South Coast to 'hold or bank space' for Aboriginal involvement in the industry.**
- 3. We recommend establishing some initial pilot projects (e.g., research trials) through collaboration between First Nation organisations, universities, government and industry partners. These pilots can assist in building successful models for Aboriginal aquaculture development.**
- 4. In order to inform these pilots, we recommend a review of previous attempts to develop Indigenous aquaculture operations, including existing successful businesses, in order to identify lessons learnt.**
- 5. We recommend on Country, practice-based training programs be developed to give First Nation communities a skills base that they can draw on to grow and develop the industry.**
- 6. We recommend the development of cultural partnership pathway protocols for industry and government to guide the co-design process as well as the negotiation of partnerships between Aboriginal and non-Aboriginal parties. These should be supported by 'cultural navigators' to assist in relationship building, networking and formal and informal (two-way) mentoring between Aboriginal and non-Aboriginal parties.**



# 1. Introduction

**The University of Wollongong (UOW) and the Blue Economy Cooperative Research Centre (BE CRC) have collaborated with the NSW Government and industry to identify social, cultural, and economic impacts and opportunities that may be associated with future development of a regenerative aquaculture industry on the south coast of NSW.**

This report examines how Aboriginal cultural values, rights, and interests can be protected, enhanced, and prioritised as this new industry develops. As part of this project, we spoke with a number of First Nation organisations and individuals on the NSW South Coast. These included two Local Aboriginal Land Councils (LALCs), one Aboriginal business, two Aboriginal Corporations and a workshop attended by over thirty Aboriginal community members from Yuin and Dharawal country.

These discussions highlighted a high degree of interest from the South Coast Aboriginal community in developing their own regenerative aquaculture opportunities. This report highlights a number of key findings and recommendations for consideration – as relayed to us by the representatives of these organisations, and informed by the guidance developed for other emerging industries in Australia.

We acknowledge the many voices that were not able to contribute to this report and encourage the continuation and expansion of these discussions as a matter of priority.

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## 2. Considering context, culture and rights

**Aboriginal people on the NSW South Coast have a long history of fighting for recognition of their rights and responsibilities over Sea Country.**

Since the earliest days of colonisation opportunities in commercial fishing, aquaculture, and cultural fishing have been promised or offered but subsequently eroded, taken away, or placed out of reach (Voyer et al., 2016, AIATSIS, 2021, Hunt and Ridge, 2022, Cruse et al., 2005). Many non-Aboriginal businesses have gone on to profit from ocean resources and Aboriginal people have been locked out of these opportunities (Cruse et al., 2005).

Historically in NSW Aboriginal people have not held commercial entitlements in proportion to their population, nor has their customary access to fisheries been protected. Various Aboriginal fishing policies have been developed, and current government policies aim to support and develop Aboriginal opportunities in Sea Country (see Section 2.1). However, to date historic underrepresentation and failure to protect cultural fishing has yet to be remedied.



Aboriginal businesses and communities have been involved in the oyster industry on the NSW South Coast for some time, and the oyster industry as a whole is providing employment opportunities for the Aboriginal communities in the region.


This includes successful Aboriginal oyster farming operations as well as several less commercially successful attempts. There are opportunities to learn from previous successes and challenges, to grow greater Aboriginal involvement in the industry.

A registered Native Title Claim currently exists covering large areas of the South Coast including three nautical miles out the sea (see Appendix).

To validly affect a Native Title right and interest, such as a right to fish, a government must follow the future act procedures under the Native Title Act 1993. Therefore, any granting of aquaculture leases within the Native Title area must follow the procedures in the Native Title Act 1993 and demonstrate compliance with the Act. Native Title applicants have the right to receive notice and to comment on these leases as they may affect Native Title.

The NSW Marine Waters Sustainable Aquaculture Strategy (MWSAS) requires consideration of both Aboriginal heritage and Native Title rights in site selection for aquaculture developments. Proposed lease areas go through an initial advertising period for objections, consultation with the Aboriginal Fishing Advisory Council (AFAC) and Native Title Services Corp and then require consultation as detailed in the MWSAS in relation to Aboriginal Cultural Heritage, Aboriginal Cultural Fishing and other factors such as sustainability and visual amenity.

Once leases are established, consultation with First Nation communities and assessments of Aboriginal cultural heritage are required as part of the Environmental Impact Assessment process (see report 1 for an explanation of this process). This includes a formal Aboriginal Cultural Heritage Assessment Report (ACHAR).



## 2.1. Current Government support for Sea Country economic development opportunities

**The NSW State Government has established a number of mechanisms to support economic development opportunities for Aboriginal people relevant to Sea Country.**

Initiative 4 of the NSW Marine Estate Management Strategy<sup>1</sup> prioritises developing and growing economic opportunities and employment for Aboriginal people on Sea Country, as well as increasing their ownership and active involvement in managing the marine estate.

Since 2018, a number of programs have been rolled out under this initiative including capacity development and training to support Aboriginal businesses, the establishment of Sea Ranger programs, the creation of pathways for employment, and business development in marine industries.

Many of the Aboriginal people with whom we spoke to for this research had seen and experienced the impact of these programs and it was clear that tangible benefits had flowed to Aboriginal communities through these investments, including through ongoing employment and skills' development.

In addition, the NSW Department of Primary Industries (DPI) and the Department of Regional NSW (DRNSW), have worked with the AFAC to establish the Aboriginal Fisheries Business

Development Program<sup>2</sup>. This two-year program aims to support the development of new, economically viable fisheries businesses that are owned and managed by Aboriginal community organisations in NSW.

A state-wide Expression of Interest (EOI) process attracted Aboriginal-community owned fisheries business proposals from across NSW. This competitive process selected three proposals to participate in the program during 2023-25.

One of these proposals was a Walbunja Aboriginal Fishing Cooperative to be developed with Joonga Land and Water Aboriginal Corporation on the South Coast. Participants in the program will be supported through feasibility studies and business planning processes, whilst also taking advantage of networking opportunities and capacity building exercises with existing successful fisheries and aquaculture business models.

The final stages of the program will work to leverage investment in the three new businesses across both the public and private sector with the support of the program partners.

**Whilst currently focused on inland opportunities, mechanisms have also been set up to explore Aboriginal involvement in aquaculture through a subcommittee formed under AFAC. This committee is currently exploring livelihood based inland aquaculture enterprises for Aboriginal people and communities. Key to this, will be identifying species and farming systems that fit with Aboriginal peoples' cultural and economic aspirations and capacities. AFAC also developed the Inland Aboriginal Aquaculture Strategy in 2018<sup>3</sup>. DPI also offers interested Aboriginal people work experience in fish hatcheries run by the agency across the state.**

<sup>1</sup> <https://www.marine.nsw.gov.au/marine-estate-programs/marine-estate-management-strategy>

<sup>2</sup> <https://www.dpi.nsw.gov.au/fishing/aboriginal-fishing/aboriginal-fisheries-business-development-program>

<sup>3</sup> <https://www.dpi.nsw.gov.au/fishing/aboriginal-fishing/nsw-aboriginal-aquaculture-strategy>



### 3. Putting First Nation people at the forefront of the regenerative aquaculture industry

There is potential for the South Coast of NSW to pioneer First Nation-led approaches to regenerative aquaculture industry, building on the solid foundation developed in recent years.

Our research revealed almost universal interest in engaging in regenerative aquaculture and inshore restoration activities amongst the Aboriginal organisations we talked to on the NSW South Coast. Across the board, there was strong interest in a range of aquaculture development opportunities from within the groups with whom we talked. There are several other LALCs and organisations with whom we did not consult as part of this report but who we would expect would hold similar aspirations.

As well as interest, many Aboriginal people on the NSW South Coast have existing capacity and are actively building skills in maritime industries, supported by Initiative 4 of the NSW Marine Estate Management Strategy. This includes training in boat handling, scientific diving, tourism operations, and infrastructure management (e.g., shark drumlines).

Many Aboriginal people on the South Coast also have skills and expertise in fishing related industries, including diving. The desire for jobs on Sea Country was commonly expressed in our conversations. In addition, the proposed Walbunja Aboriginal Fishing Co-operative would be a complementary business that has potential to support and grow Aboriginal leadership in the aquaculture industry.

The business model for the co-operative is being developed over the next two years. However, it is envisioned that the cooperative will provide

services to the Aboriginal aquaculture industry on the NSW south coast such as office support, accounting, legal/contract work as well as marketing, logistics and the establishment of a strong Aboriginal brand that customers could identify within target markets, which would provide additional value.

The principles of regenerative aquaculture, whereby an aquaculture development contributes to restoration of Sea Country alongside social and economic benefits, is attractive to many Aboriginal people, businesses, and organisations.

Many of our conversations with these groups involved discussions of regenerative aquaculture contributing to active restoration of reef areas through ecosystem level management of multiple species in an integrated way to support multiple value streams as well as social, cultural, and environmental outcomes.

In addition, broader community consultation, highlighted non-Indigenous support for First Nation involvement and leadership in future aquaculture development (See Report 3). There appeared to be a higher level of goodwill towards the idea of First Nation-led social enterprise or community owned businesses, at least in inshore areas, from some sections of the community then was experienced by developments seen as being 'for profit'.





## 4. Cultural Partnership Pathways for regenerative aquaculture industry for the NSW South Coast

**Beyond the need to develop First Nation leadership and ownership in the regenerative aquaculture industry, there is a broader imperative for established and emerging non-Indigenous aquaculture business to work with First Nation people, especially Native Title claimants, in developing their businesses.**

Here, we borrow the language of the Blue Economy Co-operative Research Centre's Cultural License to Operate research program, which proposes active work with industry on the development of Cultural Partnership Pathways<sup>4</sup>. We propose a series of principles to guide the development of these partnerships, with future guidance to be also provided through the Cultural License to Operate framework (currently under development).

The first principle sets the foundations for the development of the partnership through a recognition of the impacts of past injustice.

### Principle 1:

**Being honest (truth telling) about the historical and ongoing effects of colonisation on South Coast communities is crucial for fostering trust and understanding between industry, government, and First Nation peoples. Acknowledging past mistakes and injustices is the initial step in preventing them from happening again.**

Aboriginal culture is strongly grounded in relational approaches, which prioritise reciprocity and holistic management. Engaging with Native Title applicants and other relevant Aboriginal businesses, organisations, and communities require a commitment of time, to build relationships, and flexibility and willingness to adapt and respond to cultural learnings. Formal, government processes (such as Aboriginal Cultural Heritage Assessment Reports) are insufficient and ineffective models of engagement. In particular, this is because they operate on timelines that do not allow for relational approaches to develop, and for truth telling and negotiation to occur.

### Principle 2:

**Development proposals and approvals need to go beyond seeking consent through formal processes. There is significant opportunity to co-design a regenerative aquaculture industry for the NSW South coast based on interactive, two-way engagement models, which appropriately safeguard cultural knowledges. This means encouraging reciprocal communication and making sure there are enough resources to make it work well.**



A challenge for industry in engaging with First Nations is having a clear understanding of who needs to be involved in these discussions. There is a need for a coordinated and inclusive approach that incorporates a range of First Nation groups and individuals from across the South Coast.

### Principle 3:

**Support and planning are required to facilitate First Nation involvement and leadership in a South Coast regenerative aquaculture industry. Rather than a piecemeal approach, work is required across the South Coast to identify opportunities for collaboration, knowledge exchange, capacity and capability development, and funding pathways.**

Co-design and partnerships between Aboriginal and non-Aboriginal businesses needs to be guided by clear protocols, which allow space for cross cultural learnings and the weaving together of different knowledge systems. The principles of free, prior and informed consent must be embedded within planning and negotiation processes and include clear guidelines on how Intellectual Property (IP) will be protected.

### Principle 4:

**Cultural Partnership Pathway protocols are required to guide a co-design process for Aboriginal regenerative aquaculture industry, as well as negotiation of partnerships between Aboriginal and non-Aboriginal parties.**

Greater transparency is needed to demonstrate how the NSW Government is currently prioritising consideration of First Nation rights and responsibilities in current processes of lease identification and issuance.

### Principle 5:

**Leases within the South Coast Native Title claim area should not be issued without demonstrated compliance with the future act provisions of the Native Title Act 1993. Given the strong interest from First Nation communities in the development of this industry, consultation should extend beyond formal notifications to include meaningful collaboration and consultations.**

Development of a partnership pathway should also be appropriately resourced, as Aboriginal people are often asked to participate in consultation exercises in their own time without appropriate compensation or support. Government may need to play a role in supporting this.



## Principle 6:

**Aboriginal People must be resourced to undertake land and sea country planning to identify their cultural landscapes, and resource areas, to ensure that future development areas are identified prior to any request for their free, prior, and informed consent to particular developments. This data must be community held, and is their IP.**

Partnerships between Aboriginal and non-Aboriginal organisations and businesses have potential to provide mutually beneficial pathways towards the development of this emerging industry. Aboriginal people on the South Coast have a wealth of knowledge and insight which can inform the selection of appropriate sites, species, and farming practices. Similarly, Aboriginal people have potential to benefit from non-Aboriginal aquaculture development through provision of employment opportunities, as well as capacity/capability development and training. Despite the clear benefits to all parties, forging these partnerships is not always easy and will take patience and perseverance on all sides in order to allow time to build relationships and trust.

As part of any partnership, there needs to be recognition of the different needs, expectations and obligations that exist across cultures. Proponents are encouraged to seek out cultural immersion opportunities, cultural competency training and formal and informal ‘cultural navigators’ – trusted members of the community who can make necessary introductions but also provide guidance and support in relation to building the cultural competency of non-Aboriginal proponents and regulators.

## Principle 7:

**Early engagement with First Nations in the business planning phase of any new regenerative aquaculture development will be required to identify where collaboration opportunities may exist. Ideally, this would be facilitated via a ‘cultural navigators’ or cultural liaison to minimise fatigue and ensure culturally appropriate engagement.**

An important cultural consideration to be highlighted within any partnership arrangement is the principle of reciprocity. As such, consideration should be given to how Aboriginal communities can benefit from the proposed developments. This may include employment targets, training programs, provision of funding or food products to community, or sponsorship arrangements. Ideally, these benefits would be co-designed with relevant partners and facilitated by experienced cultural leaders.

## Principle 8:

**Any regenerative aquaculture development will be established on Aboriginal Sea Country. As such benefits should be returned to the traditional custodians of that Sea Country based on the principle of reciprocity.**



## 5. Conclusion & Recommendations

**There is significant capacity and opportunity to develop a culturally sensitive and inclusive regenerative aquaculture industry on the South Coast of NSW.**

The first step towards achieving this is ensuring that cultural rights are protected. There is a strong obligation on all parties not to repeat past mistakes and to redress past injustice when developing new Blue Economy opportunities in the region.

**At present, it is not clear that active measures have been put in place to ensure the development of a regenerative aquaculture industry in NSW that includes Aboriginal people.**

At present, there is a heavy reliance on formal consultation mechanisms required through government regulations and policy. While these set the minimum benchmark, some of the successes of the programs under Initiative 4 of the MEMS, and the work underway on Aboriginal Fisheries Development Program, lay the foundation for future opportunities to develop a more proactive approach to engagement while supporting Aboriginal leadership in the aquaculture industry.

Based on our discussions and research findings, we propose the following opportunities for **building Australia's first Aboriginal regenerative aquaculture industry.**

## 5.1. Co-Design an Aboriginal Regenerative Aquaculture Strategy

**This research only began to scratch the surface of the opportunities for Aboriginal involvement and leadership in this emerging industry.**

Further work is required with First Nation communities across the South Coast region in order to identify:

- a. if they would like to develop regenerative aquaculture opportunities in their local areas,
- b. where and what opportunities they would like to develop (including consideration of environmental, cultural and economic objectives),
- c. existing capacities, resources, training, and development needs as well as funding gaps and opportunities (including partnerships).

We recommend that First Nation organisations, government and industry and other relevant stakeholders work together to **co-design a strategic plan for First Nation involvement and leadership in a South Coast regenerative aquaculture industry.**

This plan can aim to identify opportunities for collaboration, knowledge exchange, capacity and capability development and funding pathways.

This plan could also facilitate a shared pathway through development approvals processes.





## 5.2. Establish Aboriginal Aquaculture Development Areas and pilot projects

**Building Aboriginal involvement in this industry will take time, technical support, and funding in order to develop capacity and capability, as well as to undertake the necessary feasibility studies and environmental assessments.**

It is important that the broader industry is not permitted to proceed in advance of this capacity and capability development without safeguards in place to ‘hold or bank space’ for Aboriginal people to enter the industry when they are ready.

We therefore propose the establishment of **Aboriginal aquaculture development areas along the NSW South Coast** as a priority action. This could potentially act as an interim measure to invite leadership and build capacity along the NSW South Coast with a potential for eventual consideration of expanding Indigenous involvement in the industry to appropriate areas across the entire Native Title claim.

There are some existing models of holding natural resources in ‘reserve’, such as the Minjerribah (North Stradbroke Island) Water Reserves for the Quandamooka People, that could be explored as a potential pathway toward achieving this objective.<sup>5</sup>

**There is existing interest, enthusiasm and capacity within a number of Aboriginal groups on the NSW South Coast to move forward in a more accelerated way in the short to medium term. In order to capture this momentum, we recommend establishing some initial pilot projects (eg research trials) through collaboration between First Nation organisations, universities, government and industry partners.**

**These pilots should initially focus on restoration, abalone ranching, and potential development of a hatchery. They should also focus on building linkages with the proposed Walbunja Aboriginal Fishing Co-operative as a potential processing, marketing and/or distribution arm for the industry.**

<sup>5</sup> <https://statements.qld.gov.au/statements/99314>



### 5.3. Establish dedicated capacity development programs and governance mechanisms

Further work is needed to identify the aspirations as well as the opportunities and constraints (encompassing economic, cultural, and environmental considerations) that will need to be considered in order to build a First Nation’s regenerative aquaculture industry on the South Coast (See also Report 3).

There is significant opportunity to learn from the successes and challenges of aquaculture operations with Indigenous leadership or involvement from other parts of Australia and overseas (e.g. New Zealand). This would also involve a review of previous attempts to develop Indigenous aquaculture operations, including existing successful businesses on the NSW South Coast and beyond in order to identify lessons learnt.

A successful First Nation-led regenerative Aquaculture industry will require upskilling local Aboriginal people in a range of relevant areas. On Country, practice-based training programs will be required to give First Nation communities a skills base that they can draw on to grow and develop the industry.

Capacity development should also involve exploration of appropriate governance models to ensure the maintenance of community ownership and control of future aquaculture operations. This may include the exploration of partnerships with other Blue Economy companies through joint venture or co-operative style relationships.

### 5.4. Support non-Indigenous aquaculture businesses in the creation of Cultural Partnership Pathways

Non-Aboriginal businesses seeking to develop aquaculture opportunities on the NSW South Coast require support and guidance to ensure these developments are done in a culturally appropriate way and in keeping with Native Title requirements.

We therefore recommend the development of cultural partnership pathway protocols for industry and government to guide the co-design process as well as the negotiation of partnerships between Aboriginal and non-Aboriginal parties.

These should be supported by the following:

- △ Cultural awareness training and support, including engagement of ‘cultural navigators’ to assist in relationship building, networking and formal and informal (two way) mentoring,
- △ Resourcing or other forms of support for relevant Registered Aboriginal Parties to take into account the consultation burden on communities,
- △ Guidance and support on the development of community benefit sharing arrangements, including opportunities for Aboriginal employment in aquaculture businesses, and
- △ Protocols around the consideration of underwater cultural heritage to guide formal cultural heritage assessment processes.



# Acknowledgements

With thanks to the multiple NSW South Coast Aboriginal people that guided the development of this draft, and Ms Kathryn Ridge for feedback on an earlier version.

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## Artwork

Cover & page 3:

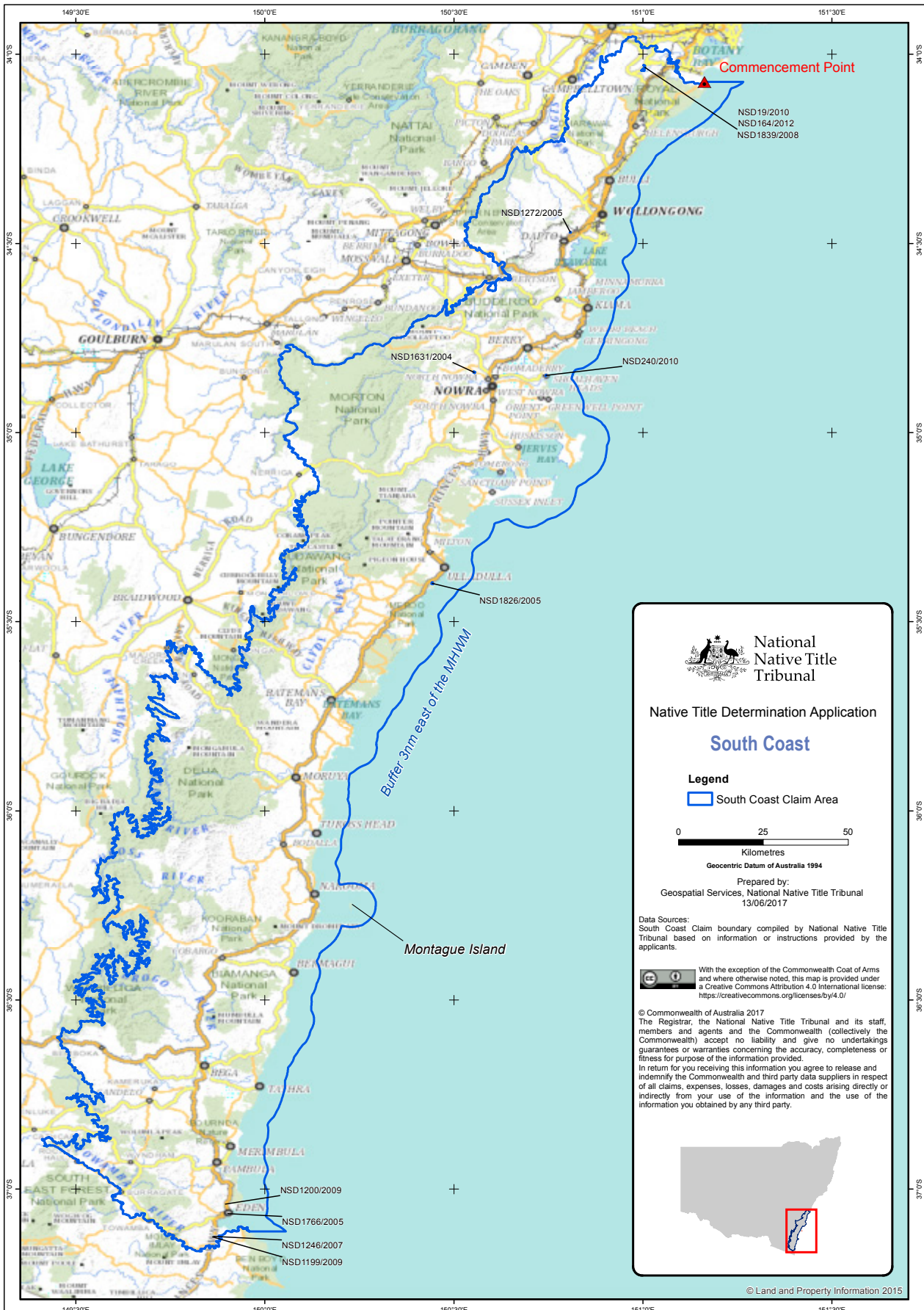
*"Australian Aboriginal Seamless Pattern with Fish"* by tribalium81

Page 4 & 6:

*"Aboriginal Dot Drt Design with Mother and Baby Dolphin"* by rashmisingh



# Appendix - Map of Native Title area



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Geotrack Number: GT2017/0862



ISBN: 978-1-922822-10-9

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