# SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS AUSTRALIAN CUSTOMS AND BORDER PROTECTION SERVICE

### **Question No. 42**

## Senator Boyce asked the following question at the hearing on 14 February 2012:

**Senator BOYCE:** My question is: with Papua New Guineans arriving by whatever method—but mostly it is by boat—in the Torres Strait at Saibai or Boigu who appear ill, what is going to happen now that the clinics no longer operate?

**Mr Carmody:** I think that will require us to get information not only from our own people but from those involved in the clinics, so unfortunately I do not think we can help you this evening.

. . .

**Ms Grant:** ... The person in charge of the small, open vessel should be required to advise that there is a communicable disease on board, but in the unique situation of the Torres Strait I think it would be best if we described whether pratique operates in the same way in the Torres Strait as it does in the rest of Australia. I would rather not give you false information now.

. . .

**Senator BOYCE:** Would you know if there are Quarantine agents in the Torres Strait?

**Ms Grant:** I need to take that on notice, but I understand we do have colleagues there. The border is managed in the Torres Strait with the usual agencies that you see at the border on the mainland. Customs, Quarantine and Immigration were all present in the Torres Strait.

**Senator BOYCE:** Could you perhaps provide on notice a copy of the memorandum of understanding or whatever it is you have for how you operate the services there, and provide me with information as to what is now going to happen with Papua New Guineans arriving in the Torres Strait who appear unwell.

Ms Grant: We will certainly take that on notice.

## The answer to the honourable senator's question is as follows:

Papua New Guinea (PNG) citizens may visit islands in the Torres Strait consistent with the Treaty between Australia and the Independent State of Papua New Guinea. The Department of Foreign Affairs and Trade (DFAT) manage the Treaty. The movement of people is managed by the Department of Immigration and Citizenship (DIAC) via Movement Monitoring officers located on the outer islands. Department of Agriculture, Fisheries and Forestry (DAFF) Bio security officers are represented on all inhabited islands to facilitate the quarantine clearance of goods imported by traditional visitors. Australian Customs and Border Protection Service officers are based on Thursday Island and conduct border clearance responsibilities on arriving goods and vessels on other islands based on intelligence and risk assessment. Additionally four locally engaged staff on outer islands assist Customs and Border Protection in a community engagement and intelligence role.

On arrival at one of the designated landing places for Australian communities PNG travellers are met by DIAC Movement Monitoring Officers who establish the validity of the travel under the Torres Strait Treaty. DAFF Bio security officers inspect any goods the travellers bring into Australia that may present a quarantine risk. Customs and Border Protection officers conduct further examinations for goods that may be subject to border controls or permits.

Education programs conducted by DFAT officials advise travellers they are not to travel to Australia to seek medical attention. A pamphlet 'Guidelines for Traditional Visitors Travelling Under the Torres Strait Treaty' is widely distributed to visitors and community members in the Straits (attached).

Queensland Health operate clinics on all inhabited islands in the Torres Strait with Boigu and Saibai Island clinics being the two that traditionally treat the largest number of PNG villagers.

These clinics will remain open and our advice is that they will continue to provide treatment for traditional travellers. The specialist visits to conduct tuberculosis clinics will cease and patients who present with tuberculosis symptoms will be referred back to PNG health professionals under an AusAid program. The process for transferring patient responsibility to PNG is being assisted by the border agencies through a Facilitated Cross Border Movement process for health professionals.

#### Traditional Fishing

- Traditional fishing means "the taking, by traditional inhabitants for their own or their dependants" consumption or for use in the course of other traditional activities, of the living natural resources of the sea, seabed, restuaries and coastal tidal areas, including dugong and turtle" (Article 1L of the Treaty).
- Torres Strait may have community management plans in place for turtle and dugong. Traditional visitors must comply with these plans, and should contact community leaders, local Native Title Body representatives or the local Island Division of the Torres Strait Island Regional Council for information before hunting turtle and dugong in a new location.
- . Nets must not be used to take dugong.
- Bag limits apply for tropical rock lobster (crayfish) of three per person or six per boat.

#### Biosecurity and Quarantine

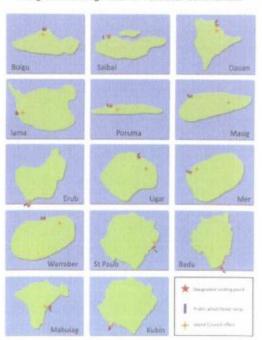
- Your belongings will be checked on entry to Australia to prevent exptic pests and diseases coming into the Torres Strait.
- Do not bring live animals including birds, live plants, fresh fruit and vegetables, meat feathers, eggs and other animal products into the Torries Strait.
- Trade may be restricted for: kundu drums made from monitor lizard (goanna) or python skin, woven fibre articles containing Cuscus fur, beads made of seeds, wood carvings, and grant clam and queen conch shells.
   These items may be protected under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), therefore permits are required for movement between countries.

#### **Endangered Species**

- The Treaty gives Australia and PNG the right to implement measures regarding flora and fauna which are or might become threatened with extinction or which is protected under international law (Article 14 of the Treaty). PNG and Australia have signed an international agreement, the Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES), which regulates international trade to ensure it does not endanger wildlife.
- Dugong and turtle are among the species covered under CITES. This
  means you are not permitted to take or trade dugong or turtle specimens
  and their products (dugong or turtle meat, dugong bone or turk, or
  turtle shell) across the border. Not from PNG into Australia. Not from
  Australia into PNG. If you do bring dugong or turtle products (including
  carvings) into the Torres Strait from PNG these items can be selted by
  Australian methorities.



#### Designated Landing Places for Australian Communities



## GUIDELINES FOR TRADITIONAL VISITORS TRAVELLING UNDER THE TORRES STRAIT TREATY

The Torres Strait Treaty sets the boundary between Australia and PNG a established the Torres Strait Protected Zone to protect the traditional w of life of Torres Strait Islanders and the coastal people of PNG who a adjacent to the Torres Strait. The Protected Zone also protects the la and sea environment of the Torres Strait.

The Treaty allows free movement (without passports or visas) betwee Australia and Papua New Guinea for traditional activities in the Protect Zone and nearby areas.

PNG traditional inhabitants come from Bula, Mari, Jeral, Teis, Bi. fler, Sigabadaru, Mabadauan, Old Mawatta, Ture Ture, Kadawa, Katat Parama and Sui (the 13 PNG Treaty Villages). They can make tradition visits (free movement without passports) into the Protected Zone. Pf traditional inhabitants can travel south into Australia as far as the degrees 30 minutes South intotale (near Mumber One Reef).

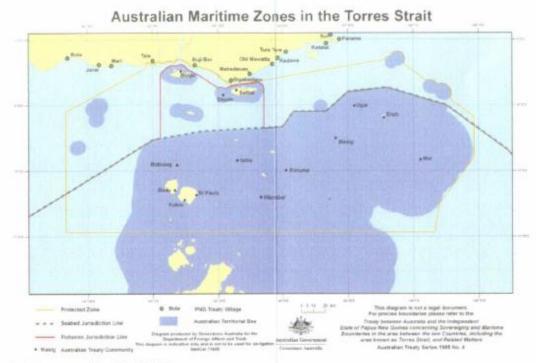
Australian traditional inhabitants come from Badu, Boigu, Porur (Coconut Island), Erub (Darniley Island), Dauan, Kubin, St Pauls, Mabus Mer (Murray Island), Salbai, Ugar (Stephen Island), Warraber (Sue Islan Iama (Yam Island) and Masje (Yorke Island). They can make tradition visits to the PNG Treaty Villages and travel north as far as the 9 degree South latitude (just north of Daru).

#### While on a traditional visit you must:

- . obey national laws and local laws and customs
- land your boat only at the proper place and report to authorities beforenering the community.
- respect the traditional way of life do not disrespect communities littering, getting drunk, being noisy, or using betel nut (bual) in put places







#### Free Movement and Traditional Activities

- Free movement is only for traditional activities that is, "activities performed by the traditional inhabitants in accordance with local tradition" (Article 1K of the Treaty). Traditional activities include gardening, collection of food, hunting, traditional fishing, religious and secular ceremonies or gatherings for social purposes (for example, marriage celebrations and settlement of disputes), and barter and market trade (Article 1K of the Treaty).
- Traditional visits do not include activities that are not traditional. Visits for health treatment, attending court cases, shopping at the store, picking up deliveries from the barge, buby sitting, working or accessing money from the ATM are not considered traditional activities.
- Free movement is only for Torres Strait Islanders Ivong in the Protected Zone and for Traditional Iohabitants from the PMG Treaty Villages. PMG nationals from Tresty villages who become Australian citizens or permanent Australian residents and live in the Protected Zone can still make traditional visits to the PMC Treaty villages.

- . Traditional visitors can only travel by dingly or cance, not by aircraft.
- The Treaty bans commercial activity, business dealings and working for money during traditional visits (e.g. cray fishing from a licensed Australian cray boat, selling artifacts to commercial operators, paid domestic assistance). Selling goods to non-traditional inhabitants is not permeted under the Treaty. Selling goods in the knowledge that they may on-sold is also not permeted under the Treaty.
- Traditional movement can be restricted for disease outbreaks, resource limitations (for example water shortages), security or quarantine concerns (Article 16 of the Treaty). Bans will only operate if required and reasonable. If you finis a ban is not fair or reasonable, contact the Border Liaison Officer (BLO) in Daru and/or the Treaty Liaison Offices (TLO) in Thursday Island.
- People who do not follow Australian laws, customs or Treaty procedures, or who otherwise, may be undestrable, can be transed from traveling, under the Treaty (Article 16 of the Treaty)

#### Arrangements for Traditional Visits

- Traditional inhabitants must get a prior advice notice requesting a slot signed by the registered signatory (i.e. the vitage chairman in the case of PMG, and the elected representative in the case of Australia). The registered signatory from one village cannot sign a pass for someone from another village. The signed prior advice notice requesting permission to visit must be sent to the relevant community before visiting. Do not travel until you receive appraisal [signed pass] back from the community you wish to visit.
- Consistent with local tradition and custom, wives from non-Treaty villages can make traditional varits with their husbands if the man is from a Treaty Village. Husbands from non-Treaty villages cannot make traditional visits if they are married to a women from a Treaty Village.
- Children must travel with their parents or legal guardians. This helps to keep children safe.
- . Do not bring non-traditional or non-approved objects to trade.
- Make sure you have enough fuel to travel back home. Always travel
  in daylight hours for your own safety. Make sure you carry safety gear
  on your boat (EPIRB, marine radio, flares, V-Sheet, Personal Floation
  Devices PFD Type 1, fire fighting devices, navigation equipment,
  bilge pump for boats over 5m, bucket for balling water, anchor, oars or
  paddles, drinking water).
- If you stay longer than the approved period on your pass without the approval of the community then you become an "overstayer" and you might be asked to leave or you might be forcibly removed. Overstaying puts lots of pressure and stress on communities. If you regularly overstay your visit, you might be banned from making future visits.

#### Special instructions for Traditional Inhabitants travelling to Australia:

- You will be turned away and prevented from entering Australia If you o bring non-Treaty people into the Torres Strait o travel with children without their parent or legal guardian on board o travel with a person banned from making traditional visits (Section 16).
- You must check in immediately with immigration Movement Monitoring Officers (MMOs) and Quarantine.
- . You must land and depart from the designated ramp or wharf.
- Different islands have different rules for lengths of visits. Please respect
  these rules. All islands have a maximum visit of three weeks. Your
  approved visit might be less than three weeks.
- If you need to stay longer than your pass (for example if the weather is bad) see the immigration Movement Monitoring Officer (MMD) straight away. The community might agree to extend your stay for a valid reason (for example bad weather).
- If you commit a crime during a traditional visit you will be dealt with under Australian law.