



Aboriginal and Torres Strait Islander Land Holding Bill 2012

Submission

**Local Government Association of Queensland Ltd
12 October 2012**



The Local Government Association of Queensland (LGAQ) is the peak body for local government in Queensland. It is a not-for-profit association setup solely to serve councils and their individuals' needs. The LGAQ has been advising, supporting and representing local councils since 1896, allowing them to improve their operations and strengthen relationships with their communities. The LGAQ does this by connecting councils to people and places that count; supporting their drive to innovate and improve service delivery through smart services and sustainable solutions; and delivering them the means to achieve community, professional and political excellence.

1. Introduction

The LGAQ understands that on 21 August 2012 the Aboriginal and Torres Strait Islander Land Holding Bill 2012 (the Bill) was introduced into parliament by the Hon Andrew Cripps MP, Minister for Natural Resources and Mines. The Bill has now been provided to the Agriculture, Resources and Environment Committee for examination with a reporting deadline of 29 October 2012. Further, the Bill seeks to:

- Resolve issues with existing leases created under the *Aboriginal and Torres Strait Islanders (Land Holding) Act 1985*;
- Allow for the subdivision of Deed of Grant in Trust (DOGIT) land;
- Provide local governments with continued access to council owned facilities and infrastructure after DOGIT land is transferred under the *Aboriginal Land Act 1991* or the *Torres Strait Islander Land Act 1991*; and
- Define the requirements for Indigenous Access and Use Agreements (IAUAs) under the *Land Act 1994*.

The Association welcomes the opportunity to provide feedback on this Bill as part of the public consultation process. The LGAQ provides in principle support of the Bill and the outcomes sought by the State.

2. Land Court, Surveying, and Costs

The State has identified that “the costs of implementing the proposed amendments in the Bill will be met by the Government through the agencies implementing the new Act”¹. Based on the dialogue at the Agriculture, Resources and Environment Committee public briefing held in Cairns on 18 September 2012, the Association understands that this will include any costs related to surveying land associated with Land Holding ('Katter') leases and resolution of these leases through the Land Court.

There is a long-term, ongoing project, managed by the Remote Indigenous Land and Infrastructure Program Office, of improving the survey information of discrete Aboriginal and Torres Strait Islander communities. The LGAQ suggests it may be most cost-effective for the State to implement a comprehensive surveying of all discrete Aboriginal and Torres Strait Islander communities to identify government facilities, infrastructure, and existing reserves, leases, and the like. It would also be effective to utilise the planning scheme development process to achieve a survey of the whole 'town area', including at a minimum, indicative locations of future 'residential lots' (which can be achieved through subdivision with the implementation of the Bill). This exercise would not only prove extremely beneficial to the current environment, but the information gathered and recorded would also be of immense value for years to come. Further, it would not rely on the ability of individuals in these remote communities to afford the cost of such activities.

The LGAQ supports that the State Government meets all costs associated with “new Act granted leases”, whether incurred by surveying the land and/or appearing before the Land Court, provided the costs were through the legitimate pursuit of an appropriate outcome. This would not include costs incurred by individuals for additional discretionary resources such as a solicitor, or the pursuit of vexatious claims. The people affected by the Bill include individuals who are the most disadvantaged when it comes to affording costly challenges.

¹ Department of Natural Resources and Mines (not dated). *Frequently Asked Questions: Aboriginal and Torres Strait Islander Land Holding Bill 2012*.



3. A Communication Strategy

The Bill, whilst intended to resolve some of the outstanding issues of land tenure in Aboriginal and Torres Strait Islander communities, proposes to implement new and relatively complex processes related to “new Act granted leases”. The LGAQ recommends that a communication strategy be developed which includes information and/or guidance targeted at each of the various stakeholder groups, such as local government, trustees and lessees, community reference panels, and individual residents. It will be appropriate to include a process flow diagram outlining each of the steps involved in “new Act granted leases”, the timeframes, the information/documentation required, the decision points, and the criteria in which those decisions will be based for each of the anticipated lease scenarios. It should be inherent within the legislation that all stakeholders affected by the Bill demonstrably understand the process and implications for them.

4. Land Tenure Broadly

The LGAQ understands that the Bill is only one part of a broader land tenure and housing program by the State that includes the development of Aboriginal and Torres Strait Islander local government planning schemes, land transfers under the *Aboriginal Land Act 1991* and the *Torres Strait Islander Land Act 1991*, implementation of the National Partnership Agreement on Remote Indigenous Housing, implementation of the Queensland One Social Housing System, and possibly others that have not been identified here or are not yet publicly available. The LGAQ supports a sincere, participatory approach to the broad land tenure and housing program that empowers both local governments and their community members to develop appropriate solutions and make their own decisions, in-line with the *Partners in Government Agreement*. In order for the broad land tenure and housing program to be clearly understood by all stakeholders, the Association requests that the program be outlined through an ‘umbrella’ document, articulating the intended long-term goals and objectives, the linkages between projects within the program, the implications (positive or negative) on local government and other stakeholders, and options for implementation.

5. Conclusion

Thank you for the opportunity to outline the LGAQ perspective relevant to the *Aboriginal and Torres Strait Islander Land Holding Bill 2012*.

Should you have any questions or concerns in relation to the comments provided in this response, please feel free to contact Tracy Haynes, Principal Advisor Planning & Development via telephone on (07) 3000 2291 or email at tracy_haynes@lgaq.asn.au.