

TORRES SHIRE COUNCIL



ABORIGINAL AND TORRES STRAIT ISLANDER LAND HOLDING BILL 2012

SUBMISSION

18 October 2012

Introduction

The Torres Shire Council area includes Waiben (Thursday Island), Ngurapai (Horn Island), Muralag (Prince of Wales Island) and other islands in the southern part of the Torres Strait. The majority of residents in the Torres Shire Council area are indigenous but the Council is not defined as an indigenous local government under the *Local Government Act 2009*.

The Kaurareg people are the traditional owners of Ngurapai, Muralag and other islands within the Council area and hold native title over these islands. The Torres Shire Council has an Indigenous Land Use Agreement with the Kaurareg people regarding future acts.

The Bill and Torres Shire Council

The land contained within the Torres Shire Council area is generally dealt with under the *Land Act 1994* where the land is a reserve or held in trust for a specific purpose or held under the *Land Title Act 1994* where the land is held in freehold.

The intention of the *Aboriginal and Torres Strait Islander Land Holding Bill 2012* to ensure protection of Commonwealth, State and indigenous local government interests where land is the subject of a perpetual lease is within Deed of Grant in Trust land or indigenous reserve land.

Torres Shire Council is not an indigenous local government within the definition in the *Local Government Act 2009*. It appears the amendments are not likely to affect Council's interests unless Council is a trustee of DOGIT or transferable land or, unless it is a State leaseholder where the lease is for rural, agricultural or pastoral purposes. Council is currently investigating the tenures of all land held by Council.

Council Assets and Transferable Land

If an application is made over Unallocated State Land or reserve land where Council assets are located and that land is transferable land as defined in the *Torres Strait Islander Land Act 1991*, Council must be assured it can obtain access rights and retain ownership of the assets after the transfer or grant of the lease.

Where the State is granting an interest in reserve land then provisions with respect to access to Council infrastructure located within the reserve should form part of the conditions of the consent to the grant of the interest.

There appears to have been no consideration given to the issues that may arise for the Torres Shire Council in relation to Council assets or possible impacts on the Council's strategic planning.

Torres Shire Council Residents

Many of the residents of the Torres Shire Council area are affected by the Bill and the associated amendments because their traditional land is on land that is outside the Council area and under the *Torres Strait Islander Land Act 1991*.

Some of the affected residents in the Torres Shire Council area require more information about how the amendments will impact on them. Their issues include, for

example, the need to resolve the location of boundaries in relation to roads and encroachments. Council is concerned that the costs involved in the process of negotiating, defining and applying for leases or resolving boundary issues may be prohibitive to some residents.

Communication

The limited and minimal communication about the *Aboriginal and Torres Strait Islander Land Holding Bill 2012* by the Department of Natural Resources and Mining (DNRM) gives Council cause for concern about how well the implementation process will be managed after the Bill has been enacted.

It is essential that all stakeholders are identified and included in any communication process. The stakeholders include the Torres Shire Council and many of its residents.

Effective communication must take into account the time needed for people to understand the process and consideration given to the constraints for people living in remote areas such as the Torres Strait Islands.

The process must be clearly articulated so that ordinary people are able to understand what their rights and responsibilities are when applying for leases, resolving issues about existing leases or other related matters

In conclusion, the Torres Shire Council appreciates the opportunity provided by the Agriculture, Resources and Environment Committee to comment on the Bill and encourages DNRM to undertake discussions about implementation of the future legislation with the Council and its residents.



Dalassa Yorkston
Chief Executive Officer