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26<sup>th</sup> November 2018

**RE: HUMAN RIGHTS BILL 2018**

We welcome and appreciate the opportunity to make a submission in relation to the proposed *Human Rights Bill 2018*.

**Preliminary Consideration: Our Background for Meaningful Comment**

The Aboriginal and Torres Strait Islander Legal Service (Qld) Limited (ATSILS), is a community-based public benevolent organisation, established to provide professional and culturally competent legal services for Aboriginal and Torres Strait Islander people across Queensland. The founding organisation was established in 1973. We now have 26 offices strategically located across the State. Our Vision is to be the leader of innovative and professional legal services. Our Mission is to deliver quality legal assistance services, community legal education, and early intervention and prevention initiatives which uphold and advance the legal and human rights of Aboriginal and Torres Strait Islander people.

ATSILS provides legal services to Aboriginal and Torres Strait Islander peoples throughout the entirety of Queensland. Whilst our primary role is to provide criminal, civil and family law representation, we are also funded by the Commonwealth to perform a State-wide role in the key

areas of Community Legal Education, and Early Intervention and Prevention initiatives (which include related law reform activities and monitoring Indigenous Australian deaths in custody). Our submission is informed by four and a half decades of legal practise at the coalface of the justice arena and we therefore believe we are well placed to provide meaningful comment. Not from a theoretical or purely academic perspective, but rather from a platform based upon actual experiences.

## **OVERALL COMMENTS**

We note the primary aims of the *Human Rights Bill 2018* is to ensure respect for human rights is embedded in the culture of the Queensland public sector and to ensure that public functions are exercised in a principled way that is compatible with human rights.

The articulation of the civil and political rights in their modern form arose in the aftermath of World War II and with the recognition that the inherent dignity of all members of the human family is the foundation of freedom, justice and peace in the world.

We welcome the efforts to ensure that public entities act and make decisions in a way that is compatible with human rights and to make it unlawful for a public entity to act incompatibly or fail to give proper consideration to human rights.

In our view the result of this approach will be to keep decision makers focussed on the impact of their decisions on individuals and will help improve outcomes.

As well as the general protection of cultural rights in Section 27, we particularly welcome the inclusion of Section 28 addressing cultural rights of Aboriginal and Torres Strait Islander peoples drawn from the provisions in the *United Nations Declaration on the Rights of Indigenous Peoples* which provides that:

### **28 Cultural rights—Aboriginal peoples and Torres Strait Islander peoples**

- (1) Aboriginal peoples and Torres Strait Islander peoples hold distinct cultural rights.
- (2) Aboriginal peoples and Torres Strait Islander peoples must not be denied the right, with other members of their community—
  - (a) to enjoy, maintain, control, protect and develop their identity and cultural heritage, including their traditional knowledge, distinctive spiritual practices, observances, beliefs and teachings; and
  - (b) to enjoy, maintain, control, protect, develop and use their language, including traditional cultural expressions; and

- (c) to enjoy, maintain, control, protect and develop their kinship ties; and
  - (d) to maintain and strengthen their distinctive spiritual, material and economic relationship with the land, territories, waters, coastal seas and other resources with which they have a connection under Aboriginal tradition or Island custom; and
  - (e) to conserve and protect the environment and productive capacity of their land, territories, waters, coastal seas and other resources.
- 3) Aboriginal peoples and Torres Strait Islander peoples have the right not to be subjected to forced assimilation or destruction of their culture.

We also welcome that the purpose of this Bill is also to promote the discussion, awareness raising and education about human rights and that the Bill also includes a dispute resolution process through the Queensland Human Rights Commission. We are hopeful that the Bill, through the dispute resolution process will create mechanisms whereby not only the individual complaint is addressed but that systemic issues can be identified and addressed as well.

We welcome the recognition that there is collective responsibility that is inherent in the proposition that all people are of equal value and all are entitled to be treated equally, and the desire to build a proactive, respectful and compassionate culture.

We thank you for the opportunity to provide input and thank you for your careful consideration of these submissions.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Shane Duffy', written in a cursive style.

Mr. Shane Duffy  
Chief Executive Officer  
ATSILS (Qld) Ltd.