

TORRES STRAIT ISLAND REGIONAL COUNCIL

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Our Ref:

BY EMAIL: CHA_review@datsip.qld.gov.au

25 July 2019

CHA Review
Department of Aboriginal and Torres Strait Islander Partnerships
PO Box 15397
CITY EAST QLD 4002

RE: Feedback – Review of the Cultural Heritage Acts

I refer to the consultation paper regarding the review of the Cultural Heritage Acts in which submissions on issues relating to the Cultural Heritage Act are sought.

The Torres Strait Island Regional Council (TSIRC), is one of two local councils found in the Torres Straits. The Torres Strait Islands are scattered between the tip of Cape York Peninsula and Papua New Guinea across 42,000 square kilometres of sea.

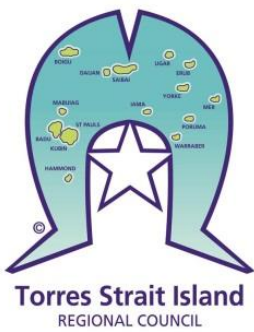
TSIRC represents the 15 outer island communities of Badu, Boigu, Dauan, Erub (Darnley Island), Kirirri (Hammond Island), Iama (Yam Island), Kubin Community at Moa (Banks Island), Mabuiag, Masig (Yorke Island), Mer (Murray Island), Poruma (Coconut Island), Saibai, St Pauls Community at Moa (Banks Island), Ugar (Stephen Island), and Warraber (Sue Island).

Almost all of the island communities above have determinations of exclusive native title and TSIRC holds the Deed of Grant in Trust for 13 of the island communities.

Council was formed in 2008, as part of the State Government's amalgamation policy, as an entirely new local council governed under the *Local Government Act* (Qld). Prior to this, the area was under the jurisdiction of the *Community Services (Torres Strait) Act* (Qld) and each community above had its own independent Island Council.

As the local government body, TSIRC has a central role in approving development activities, and indeed is the proponent for most of the essential services that the Island communities need to survive. In performing these functions, TSIRC is keenly aware of its obligations regarding Torres Strait Islander Cultural Heritage.

In carrying out its functions, TSIRC is heavily dependent on outside contractors from the mainland to provide the necessary services to the community. As such, TSIRC has an obligation to ensure that contractors abide by the requirements of the *Torres Strait Islander Cultural Heritage Act* and Ailan Kastom.



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In reviewing the *Torres Strait Islander Cultural Heritage Act 2003*, The first major issue for TSIRC is that there are no Duty of Care Guidelines gazetted by the Minister as per Section 28 of the Act. I note that Duty of Care guidelines were gazetted by the Minister for the Aboriginal Cultural Heritage Act on 16 April 2004, but none were gazetted under the Torres Strait Islander Cultural Heritage Act.

You would appreciate that the Torres Strait Region is markedly different in both culture and cultural heritage from Aboriginal culture and cultural heritage on the mainland.

TSIRC therefore recommends that the Minister pursuant to Section 28 (2) of the Torres Strait Islander Cultural Heritage Act undertakes a consultation with the nominated Torres Strait Islander groups, industry groups, local government and other persons whom the Minister would consider appropriate. In this category I would advise the Minister to also consult with the Torres Strait Regional Authority.

After such consultations, it is submitted that the Minister by gazette notice notify of the duty of care guidelines as per Section 28(1).

These guidelines would assist TSIRC in providing guidance to its contractors and employees of their obligations under the Act to protect the unique and diverse cultural heritage of Torres Strait Islanders.

It would be greatly appreciated if these submissions could be taken into consideration and I look forward to your reply on this matter.

If you have any further questions, please contact Peter Krebs our Legal Manager on (07) 4034 5772 or email: peter.krebs@tsirc.qld.gov.au.

Yours faithfully

Cr. Fred Gela

Mayor
Torres Strait Island Regional Council

