
**Submission to the Department of Aboriginal and Torres Strait Islander Partnerships
(‘DATSIP’) regarding the Cultural Heritage Acts Review**

1. Introduction

In accordance with DATSIP’s review of the *Aboriginal Cultural Heritage Act 2003* and *Torres Strait Islander Cultural Heritage Act 2003* (‘the Acts’) we provide the following brief preliminary submission. We understand the purpose of the review includes, but is not limited to, achieving efficient outcomes for Aboriginal and Torres Strait Islander people and relevant Queensland stakeholders, reframing the relationship with Aboriginal and Torres Strait Islander people and ensuring the Acts are operating as intended and in accordance with contemporary drafting standards and native title. The purpose of the Acts are recognition, protection and conservation of Aboriginal and Torres Strait Islander cultural heritage.¹ Accordingly, this submission aims to reflect the purpose of the Acts and impending review.

2. The Acts

Interpretation of both Acts ought to begin with defining Aboriginal and Torres Strait Islander people, culture and knowledge. Additionally, under s 8(c) of the Acts cultural heritage includes evidence of archaeological or historic significance of occupation of areas in Queensland. However, neither statutes provide protection for intangible evidence of cultural heritage such as songlines. We recommend, therefore, the Acts are amended in consultation with Aboriginal and Torres Strait Islander people to include the abovementioned provisions.

To strengthen the capacity of the Acts it is also recommended a broader consideration of relevant legislation and policies are considered and applied.

¹ the Acts s 4.

2.1. Protection

As it stands, existing measures are failing to provide adequate protection of sacred sites. For example, we understand recently at Scenic Rim a sacred site's bora ring was destroyed. Consequently, efficient and effective protection of sacred sites needs to be addressed as a matter of urgency. Additionally, further support for the proposal of an official registry of sacred sites is necessary to record and maintain the protection of sacred sites across Queensland.

Further, it is recommended that relevant Queensland Government and Department employees undergo cultural competency training to ensure a comprehensive understanding exists between Aboriginal and Torres Strait Islander people, Government and relevant stakeholders.

2.2. Cultural Heritage Assessments

All cultural heritage assessments by archaeologists should be undertaken with Traditional Owners. Further information regarding the scope of landscape is also necessary to ensure a comprehensive understanding of cultural knowledge forms part of cultural heritage assessments. To undertake assessments without consulting Traditional Owners and applying cultural knowledge is nonsensical and contradicts the object and purpose of the Acts. Further details and information surrounding who holds the responsibility to undertake cultural heritage assessments needs to be publicly available and published within a reasonable timeframe prior to assessment to ensure Traditional Owners are consulted and involved with these assessments.

3. DNR Ethics Panel / Complaints Officer

Development of an Ethics Panel or a Complaints Officer within the Department of Natural Resources is recommended for the purpose of investigating and resolving cultural heritage complaints by Traditional Owners regarding their traditional land.

4. Aboriginal and Torres Strait Islander Cultural Heritage Committee

4.1. Regulatory Body

The development of a regulatory body overseeing drafting and implementation of relevant legislation and polices would assist with ensuring the Acts operate as intended in addition to

guaranteeing recognition, protection and conservation of Cultural Heritage. Additionally, such a Committee could support, mediate and resolve disputes between Traditional Owners, individuals and relevant Queensland stakeholders. In addition to ensuring Traditional Owners are consulted and involved with all planning and development applications across Queensland which relate to Traditional Owners' lands.

Further scope for the Committee may include providing support to Traditional Owners in identifying issues, liaising between communities and addressing work orders, resources and the availability of tools.

4.2. Cultural Heritage Education

Development of a program for Traditional Owners to impart and pass on knowledge and laws to younger generations is necessary to ensure the ongoing protection and awareness of cultural heritage areas. This initiative will also ensure knowledge is recorded accurately.

Please do not hesitate to contact us should you have any queries or require further information. In the meantime, thank you for the opportunity to provide a submission for this review.

Sincerely

Chrissy Ellis & Catherine Boeske
On behalf of the Management Committee of ANTaR Qld Inc
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