



Australian Government

# TORRES STRAIT REGIONAL AUTHORITY



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16 November 2009

## *Inquiry into matters relating to the Torres Strait Region*

Dear Secretary

The Torres Strait Regional Authority (TSRA) thanks the Committee for the opportunity to contribute to the Inquiry into matters relating to the Torres Strait Region. The TSRA has addressed all of the Terms of Reference of the Inquiry in this submission.

The TSRA is of the opinion that consideration of the administration and management of matters relating to Australia's northern air, sea and land approaches in the region of the Torres Strait is timely, and presents the region with an opportunity to highlight the pressures and challenges it faces, being the only region in Australia with an international border on its doorstep.

The Inquiry also provides us with another avenue to highlight the impacts of climate change being felt in the region and the critical need for mitigation and adaptation strategies.

The Torres Strait Treaty has not been reviewed since it came into force in 1985, however it is the TSRA's opinion that the Treaty itself is sound; the problems associated with its operation lie with the poor socio-economic circumstances of PNG and the resources that are needed on the Australian side of the border to 'carry' the resultant burden.

The TSRA looks forward to the opportunity to explain these matters further to the Senate Committee in Canberra.

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Yours sincerely

  
Mr John T. Kris  
Chair



**Australian Government**

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# **TORRES STRAIT REGIONAL AUTHORITY**

**SUBMISSION TO  
SENATE FOREIGN AFFAIRS, DEFENCE AND TRADE COMMITTEE**

**INQUIRY INTO MATTERS RELATING TO THE TORRES STRAIT REGION**

**16 NOVEMBER 2009**

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## Table of Acronyms

ACS	Australian Customs Service
AFMA	Australian Fisheries Management Authority
AFP	Australian Federal Police
AQIS	Australian Quarantine and Inspection Service
ATSIC	Aboriginal and Torres Strait Islander Commission
CASA	Civil Aviation Safety Authority
CDEP	Community Development Employment Projects Program
CFG	Community Fisher Group
CITES	Convention on International Trade in Endangered Species
COAG	Council of Australian Governments
CWG	Community Working Groups
DAFF	Department of Agriculture, Forestry and Fisheries (Clth)
DEC	Department of Environment and Conservation (PNG)
DEEDI	Department of Employment, Economic Development and Innovation (QLD)
DEWHA	Department of Environment, Water, Heritage & the Arts (Clth)
DFAT	Department of Foreign Affairs and Trade (Clth)
DIAC	Department of Immigration and Citizenship (Clth)
DoHA	Department of Health and Ageing (Clth)
DTMR	Department of Transport and Main Roads (QLD)
EMC	Environment Management Committee
EMQ	Emergency Management Queensland
EPBCA	Environment Protection and Biodiversity Conservation
HIC	Health Issues Committee
IBIS	Islander Board of Industry Service
IUCN	International Union for the Conservation of Nature
JAC	Joint Advisory Council
LSMU	Land and Sea Management Unit
MIP	Major Infrastructure Program
NPA	Northern Peninsula Area
PBC	Prescribe Body Corporate
PNG	Papua New Guinea
PZJA	Protected Zone Joint Authority
RPT	Regular Passenger Transport
TIB	Traditional Inhabitant Boat (licences)
TIM	Treaty Inhabitants Meeting
TRL	Tropical Rock Lobster
TSC	Torres Shire Council
TSFA	Torres Strait Fisheries Act
TSFMAC	Torres Strait Fisheries Management Advisory Committee
TSFWG	Torres Strait Finfish Working Group
TSHCWG	Torres Strait Hand Collectable Working Group
TSIRC	Torres Strait Island Regional Council
TSNPA	Torres Strait and Northern Peninsula Area
TSPMAC	Torres Strait Prawn Management Advisory Committee
TSPWG	Torres Strait Prawn Working Group
TSPZ	Torres Strait Protected Zone
TSRA	Torres Strait Regional Authority
TSSAC	Torres Strait Scientific Advisory Committee
TSTRLRAG	Torres Strait Tropical Rock Lobster Resource Assessment Group
TSTRLWG	Torres Strait Tropical Rock Lobster Working Group
TVH	Torres Strait Fishing Boat (licences)

## Executive Summary

The challenges for the TSRA on the ground are to work towards COAG goals on 'Closing the Gap on Indigenous Disadvantage' whilst managing the pressures that the Torres Strait region faces in assisting Papua New Guinea (PNG) with its own broad range of challenges. The challenge is greater because the *Torres Strait and Northern Peninsula Area Regional Plan 2009-2029* and related whole-of-government strategies do not yet have the scope (or the funding arrangements) to deal with the border issues concerning health and social services, community security, fisheries and environment management that are described in this submission. Consequently, the TSRA is working above and beyond its core business and the Torres Strait Islander and Aboriginal residents of the Region are acting - informally and often with little recognition - as the 'eyes and ears' of the nation on its northern border whilst also carrying the 'silent burden' of PNG visitation

This submission only presents selected elements of a wide range of community, economic development and environmental issues that the TSRA has to deal with in its operations. The matters discussed in this submission are those that are immediately relevant to the Terms of Reference provided by the Senate Committee for Foreign Affairs and Trade for the Inquiry on *Matters Relating to the Torres Strait*.

The TSRA looks forward to maintaining its co-operation with PNG on Torres Strait Treaty matters, as well as on other issues that affect international border security through the various bilateral arrangements between PNG and Australia.

The TSRA would like to make the following recommendations:

1. That more detailed reporting be undertaken by DIAC of non-compliance with Treaty arrangements by PNG visitors to the Torres Strait.
2. Commonwealth and Queensland Governments commit to a 50 percent reduction by 2013 in the number of presentations of PNG nationals at Queensland Health clinics in the Torres Strait.
3. Greater investment in infrastructure development in Western Province, PNG, as well as improved accountability for Australian Government aid and investment in the Province.
4. The TSRA would like the Commonwealth and Queensland Governments to consider the immediate changes that can be made to current policy settings that will increase long-term secure employment for Island people in their communities and also considerably enhance the security of the international border. These include the transition of community police from current CDEP funding arrangements to full-time, permanently secured positions. These appointments will also address the:
  - employment goals of the Council of Australian Governments (COAG) 'Closing the Gap on Indigenous Disadvantage' Initiative, and
  - Economic Development and Community goals of the Regional Plan.
5. The Commonwealth Government supports the TSRA Torres Strait Turtle and Dugong Management Program in its efforts to enhance cooperation with coastal communities in Western Province, PNG in turtle and dugong conservation.

6. The Commonwealth Government supports longer term community aspirations for the transfer of the commercial Torres Strait fisheries into Indigenous ownership.
7. The Commonwealth Government supports the TSRA in developing marine conservation management alliances between Torres Strait communities and regional and national Governments in Australia, PNG and Indonesia. The TSRA would like to be part of any international negotiations on co-operation under the Coral Triangle Initiative.
8. That the Commonwealth and Queensland Governments support the TSRA in critical mitigation works and in the development of community adaptation strategies in the Torres Strait to deal with the current coastal erosion problems and with forecast effects of climate change. This is the most critical issue in the Torres Strait and is one that affects the viability of island communities as well as having considerable implications for international border security.
9. The Commonwealth and Queensland Governments support the implementation of the *Torres Strait and Northern Peninsula Area Regional Plan 2009-2029* and the integrated service delivery arrangements that have been agreed upon for the Northern Peninsula and Torres Strait region.
10. Commonwealth and Queensland Governments investigate all options for the provision of public transport services to enhance connectivity and improve the safety of travel between islands, and agree to fully fund the 'Horn Island Airport: Runway Repair and Upgrading Project'.

The TSRA looks forward to the opportunity to explain these matters further to the Senate Committee in Canberra.

## 1. Torres Strait Regional Authority

The Torres Strait Regional Authority (TSRA) is a Commonwealth statutory authority established in 1994 under the *Aboriginal and Torres Strait Islander Commission Act 1989* (the ATSI Act), and now operating under the *Aboriginal & Torres Strait Islander Act 2005* (the ATSI Act). The Commonwealth Government funds the TSRA to achieve a better quality of life and develop an economic base for Torres Strait Islanders and Aboriginal persons living in the Torres Strait.

Under Section 142A of the Act, the TSRA is required:

- (a) to recognise and maintain the special and unique Ailan Kastom of Torres Strait Islanders living in the Torres Strait area;
- (b) to formulate and implement programs for Torres Strait Islanders, and Aboriginal persons, living in the Torres Strait area;
- (c) to monitor the effectiveness of programs for Torres Strait Islanders, and Aboriginal persons, living in the Torres Strait area, including programs conducted by other bodies;
- (d) to develop policy proposals to meet national, State and regional needs and priorities of Torres Strait Islanders, and Aboriginal persons, living in the Torres Strait area;
- (e) to assist, advise and cooperate with Torres Strait Island and Aboriginal communities, organisations and individuals at national, State, Territory and regional levels;
- (f) to advise the Minister on:
  - (i) matters relating to Torres Strait Islander affairs, and Aboriginal affairs in the Torres Strait area, including the administration of legislation;
  - (ii) the coordination of activities of other Commonwealth bodies that affect Torres Strait Islanders, or Aboriginal persons, living in the Torres Strait area;
- (g) when requested by the Minister, to provide information or advice to the Minister on any matter specified by the Minister;
- (h) to take such reasonable action as it considers necessary to protect Torres Strait Islander and Aboriginal cultural material and information relating to the Torres Strait area if the material or information is considered sacred or otherwise significant by Torres Strait Islanders or Aboriginal persons;
- (i) at the request of, or with the agreement of, the Australian Bureau of Statistics but not otherwise, to collect and publish statistical information relating to Torres Strait Islanders, and Aboriginal persons, living in the Torres Strait area;
- (j) such other functions as are conferred on the TSRA by this Act or any other Act;

- (k) such other functions as are expressly conferred on the TSRA by a law of a State or of an internal Territory and in respect of which there is in force written approval by the Minister under section 142B;
- (l) to undertake such research as is necessary to enable the TSRA to perform any of its other functions; and,
- (m) to do anything else that is incidental or conducive to the performance of any of the preceding functions.

The TSRA also performs separate functions under the *Native Title Act 1993 (Cth)* as the Native Title Representative Body for the Torres Strait Region.

The TSRA aims to improve the lifestyle and well-being of Torres Strait Islander and Aboriginal people living in the region through programs that address their poor socio-economic and health status.

While the statutory responsibilities of the TSRA relate specifically to Torres Strait Islander and Aboriginal people, its operations as a lead agency are a catalyst for development in the Torres Strait and the Northern Peninsula Area (NPA) in general.

The TSRA is unique in the way its corporate decision-making involves a Board comprised of twenty elected representatives who are Torres Strait Islander and Aboriginal people from each Torres Strait community in the region. Seventeen TSRA Members are Island Councillors elected under the *Local Government Act 1993 (Qld)*, and three TSRA Members are elected under Division 5 of the Act.

The TSRA is currently leading a whole-of-government initiative to develop a regional partnership including the Queensland, Australian and Local Governments, that will address Indigenous disadvantage and deliver key benefits in an integrated approach to the communities within the region. This regional planning process has to date included the development and finalisation of the *Torres Strait and Northern Peninsula Area Regional Plan 2009-2029 (Regional Plan)*.

The *Regional Plan* has been the basis for the development of the TSRA's new *Torres Strait Development Plan 2009-2013 (Development Plan)*,<sup>1</sup> which outlines the seven programs that the TSRA will develop and deliver to contribute to both the Regional Goals expressed in the *Regional Plan* and the Building Blocks for the COAG 'Closing the Gap on Indigenous Disadvantage' initiative.

The TSRA programs will target outcomes and benefits that aim to make a real difference and contribute to a better living environment in the Torres Strait.

These programs are:

- Economic Development
- Culture, Art and Heritage
- Native Title
- Environmental Management
- Governance and Leadership
- Healthy Communities

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<sup>1</sup> The *Aboriginal & Torres Strait Islander Act 2005* (Section 142D) requires the TSRA to formulate a Torres Strait Development Plan, to apply for between 3 and 5 years, and to review and update this regularly.



- Safe Communities.

The TSRA is also involved with Papua New Guinea (PNG), through the mechanisms of the Torres Strait Treaty, in dealing with international cross-border issues that include:

- Development of Torres Strait fisheries to promote local economic growth in the region
- Pressure on Island community services from unregulated visits by PNG residents
- Illegal fishing of turtle, dugong and *beche-de-mer*, and reduction in marine biodiversity
- Climate change and the immediate need for mitigation and adaptation strategies to increase food and water security for residents in the Western Province of PNG.

Climate change and the future viability of low-lying island settlements and related infrastructure are the key strategic concerns of TSRA in 2009.

## 2. The role of the TSRA in respect of Treaty and border issues

The Torres Strait Treaty (the Treaty) is an agreement which describes the international boundary between Australia and Papua New Guinea (PNG) and the ways in which the sea area on either side of it may be used. This boundary became an issue that needed to be clarified after PNG's independence in 1973. The Treaty was signed in December 1978 and came into force in 1985.

The Treaty describes two boundaries, the Seabed Jurisdiction Line and the Fisheries Jurisdiction Line (Figure 1). Australia has rights to all things on or below the seabed south of the Seabed Jurisdiction Line and PNG has the same rights north of the line. Australia has rights over fish south of the Fisheries Jurisdiction Line and PNG has the same rights north of the line, though both countries have agreed to share access to these fishing rights.

The Seabed Jurisdiction Line is the main boundary between Australia and PNG. However, the following islands which lie north of that line also belong to Australia:

- Anchor Cay
- Aubusi Island
- Black Rocks
- Boigu Island
- Bramble Cay
- Dauan Island
- Deliverance Island
- East Cay
- Kaumag Island
- Kerr Islet
- Moimi Island
- Pearce Cay
- Saibai Island
- Turnagain Island
- Turu Cay

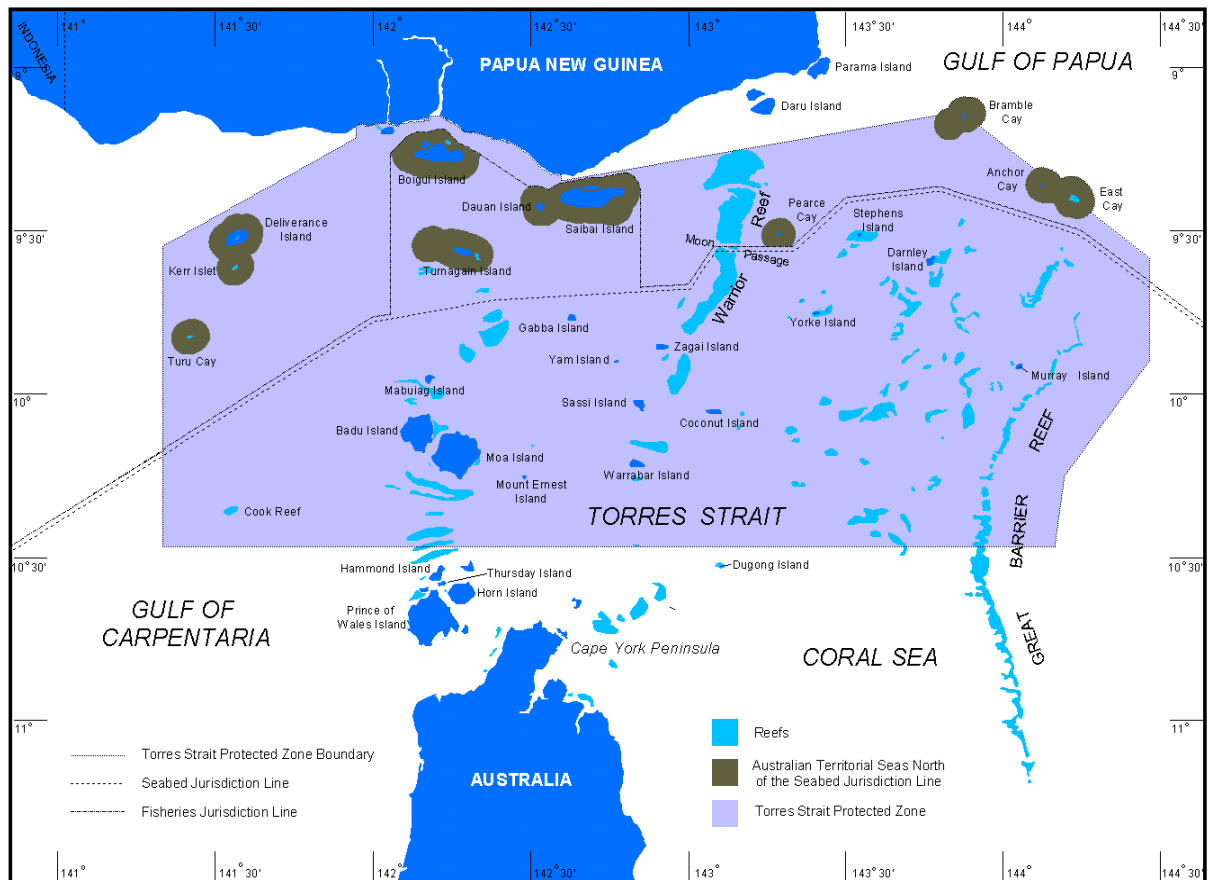
Australian islands north of the Seabed Jurisdiction Line also have their own territorial seas of three nautical miles (unless otherwise specified in the Treaty).

The Treaty also defines the Torres Strait Protected Zone (TSPZ) which is an area of ocean within which the Treaty deals with matters of:

- Traditional activities
- Protection of the land, sea and air environments of the Torres Strait, and
- Commercial fishing.

The TSPZ in Australia is almost entirely within the geographic domain of TSRA's statutory responsibilities and also the local government responsibilities of those fifteen TSRA board members who sit on the Torres Strait Island Regional Council (TSIRC).

Figure 1: The Torres Strait Protected Zone



Source: PZJA

## 2.1. Traditional activities

Torres Strait Islanders and the coastal people of PNG who are defined as 'Traditional Inhabitants' under the terms of the Treaty may move freely (without passports or visas) for traditional activities in the TSPZ. Activities that are defined as 'traditional' under the Treaty include activities on land (such as gardening, food collection and hunting), activities on water (such as fishing for food), ceremonies or social gatherings (such as marriages or tombstone openings) and traditional trade.<sup>2</sup> Business dealings and employment for money are not allowed as traditional activities under the Treaty ([www.dfat.gov.au/geo/torres\\_strait](http://www.dfat.gov.au/geo/torres_strait)).

Traditional inhabitants from Australia and PNG, in consultation with their Governments, have agreed on the names of thirteen PNG villages to have Free Movement privileges under the Treaty. Traditional inhabitants from the nominated thirteen PNG coastal villages are allowed to travel south into Australia as far as the 10 degrees 30 minutes South latitude line near Number One Reef.

<sup>2</sup> Traditional trade is through barter and does not include any exchange of money or labour. It includes those 'traditional' goods which are specified in the Treaty (Commonwealth of Australia 1995. *Treaty between Australia and the Independent State of Papua New Guinea*, Australian Treaty Series 1985 No. 4, Canberra: Australian Government Publishing Service).

## 2.2. Torres Strait environment

The environmental provisions of the Treaty are important for the preservation of the traditional and commercial fisheries; and for the protection of the Torres Strait environment. Article 14 of the Treaty prescribes actions for the protection of indigenous flora and fauna species within the TSPZ. A ten-year prohibition on mining and drilling in the TSPZ was agreed under the Treaty in 1985, and was extended indefinitely in 2008.

The TSRA Environmental Management Program is administered by the Land and Sea Management Unit (LSMU). The LSMU takes the regional lead in biodiversity conservation (in particular in dugong and turtle protection) and in sustainable primary industry through sustainable land use and local fisheries management. The LSMU also represents the TSRA on Treaty business concerning the Torres Strait environment.

## 2.3. Commercial fishing

The Treaty aims to ensure that commercial fishing in the TSPZ is in harmony with the subsistence needs of traditional fishing. It provides for commercial fishing by both Australia and PNG and includes arrangements for the sharing of commercial catch. The Treaty has been incorporated into Australian law by the *Torres Strait Fisheries Act 1984* (Cth) and the *Torres Strait Fisheries Act 1984* (Qld) and into PNG law by the *Fisheries (Torres Strait Protected Zone) Act 1984* (PNG). The Torres Strait Protected Zone Joint Authority (PZJA) is an outcome of the *Torres Strait Fisheries Act 1984* (Cth) (TSFA) and is the statutory body that manages the traditional and commercial fishing interests of the TSPZ and designated adjacent Torres Strait waters in Australia.

The PZJA is comprised of three members - the Commonwealth Minister for Agriculture, Fisheries and Forestry, the Queensland Minister for Primary Industries, Fisheries and Rural and Regional Queensland and the Chairperson of the TSRA. The PZJA members are supported by their associated government agencies (Department of Agriculture, Fisheries and Forestry – DAFF; Department of Employment, Economic Development and Innovation – DEEDI; and the TSRA) as well as the Australian Fisheries Management Authority (AFMA). The PZJA is a unique arrangement, by Australian and international standards, for the management of commercial and traditional fisheries.

TSRA has two discrete functions in the PZJA fishery. At the PZJA level, the Chairperson has a clear role supporting the two Ministers in making policy decisions for the Torres Strait Fisheries. At the administrative level of TSRA, a key focus is to support and represent Torres Strait Islander interests for traditional fishing and commercial fisheries within the Torres Strait. Torres Strait fisheries are the only sustainable primary industry in the region with any realistic potential for future economic growth. The successful management of Torres Strait fisheries for the benefit of Torres Strait people is one of the TSRA's primary goals, which will also help achieve the outcomes of the *Regional Plan* and of the COAG 'Closing the Gap on Indigenous Disadvantage' initiative. The TSRA employs two fisheries officers who are based in the LSMU to support the Torres Strait fishery.

The TSRA has an Economic Development Program which funds business planning and accredited training, and provides loans for the purchase of capital equipment to Torres Strait people who wish to establish or expand their own fishing business.

## **2.4. The TSRA and the Treaty Cycle**

Treaty business is coordinated in the Torres Strait by Treaty Liaison Officers based at Thursday Island in Australia and at Daru in PNG. The Department of Foreign Affairs & Trade (DFAT) has overall policy responsibility for the Treaty and coordinates other bilateral relationships with PNG national and provincial Governments.

The TSRA communicates with PNG on matters within the Protected Zone through the following consultative mechanisms that have been set up by the Treaty:

- Traditional Inhabitants Meeting (TIM)
- Environmental Management Committee (EMC)
- Joint Advisory Council (JAC).

**Traditional Inhabitants' Meeting (TIM)**

As part of the liaison arrangements under the Torres Strait Treaty, *Article 18: 2(a), 3(a)+(b)*, and the government's obligation to keep Traditional Inhabitants informed of relevant developments in (and in the vicinity of) the Protected Zone, the Traditional Inhabitants Meeting (TIM) was formed. This is a forum for traditional inhabitants of both countries to discuss issues and activity in the region, and report concerns to government through their Treaty Liaison Officer.

**Environmental Management Committee (EMC)**

The EMC was developed as a Sub-Committee to the JAC, to deliberate specifically on environmental matters. It was established to address the absence of a mechanism for Australia and PNG to discuss policy and technical matters relating to the protection of the Torres Strait environment. Membership is open to relevant agencies of national and provincial/state Governments and representatives of traditional inhabitants. The EMC meets annually to progress environmental issues raised throughout the Treaty Cycle.

**Joint Advisory Council (JAC)**

The JAC was established under Article 19 of the Treaty as an advisory body of Australian and PNG officials, together with traditional inhabitant representatives. Meetings are held alternately in Australia and PNG. The functions of the JAC are to:

- seek solutions to problems arising at the local level that are not resolved by the Torres Strait Treaty Liaison Officer and the Papua New Guinea Border Liaison Officer located on Thursday Island and Daru respectively
- consider and make recommendations to the Parties on any developments or proposals which might affect the protection of the traditional way of life and livelihood of the traditional inhabitants, their free movement, performance of traditional activities and exercise of traditional customary rights
- review from time to time as necessary, and to report and to make recommendations to the Parties on any matters relevant to the effective implementation of this Treaty, including the provisions relating to the protection and preservation of the marine environment, and fauna and flora in and in the vicinity of the Protected Zone.

In the exercise of its functions, the Council is required to ensure that the traditional inhabitants are consulted and given full and timely opportunity to comment on matters of concern to them, and that their views are conveyed in the Council's reports and recommendations. The Council is required to transmit its report and recommendations to the Foreign Ministers of Australia and Papua New Guinea.

[www.dfat.gov.au/geo/torres\\_strait](http://www.dfat.gov.au/geo/torres_strait)

[http://www.gbrmpa.gov.au/data/assets/pdf\\_file/0014/4172/ws016\\_paper\\_40.pdf](http://www.gbrmpa.gov.au/data/assets/pdf_file/0014/4172/ws016_paper_40.pdf)

An annual Treaty Cycle comprises joint Australia-PNG meetings of the TIM and JAC. The most recent JAC meeting was hosted by PNG at Alotau on 3 November 2009. The most recent TIM meeting occurred in Daru, PNG on 16 April 2009. The Australian delegation of traditional inhabitants at that meeting was led by the TSRA Chairperson, Mr Toshie Kris. All elected community leaders in the Torres Strait are permitted to take part in the TIM. Other TSRA Board Members from communities within the TSPZ that receive regular visits from Treaty villages in the Western Province of PNG are also able to participate. Issues discussed at this meeting included Traditional Movements allowed by the Treaty, law and order, fisheries, the environment and health. Recommendations from this meeting were then passed on to the JAC.

Apart from the TSRA, Commonwealth Government agencies who participate in the JAC include the DFAT, the Australian Federal Police (AFP), the Australian Customs Service (ACS) (including Border Protection Command), the AFMA, the Australian Quarantine Inspection Service (AQIS), Department of the Environment and Water, Heritage and the Arts (DEWHA), and the Department of Immigration and Citizenship (DIAC). These agencies have inter-departmental meetings to progress Treaty business throughout the year.

The agenda of the 18<sup>th</sup> Meeting of the Torres Strait Treaty JAC at Alotau in November 2009 is illustrative of the breadth of issues dealt with by the Treaty. As well as the recommendations of an earlier TIM meeting, the agenda items include:

- Treaty Awareness Visits
- Update on Guidelines for Traditional Visits
- Fisheries closures in the Torres Strait
- Torres Strait Turtle and Dugong Community Management Plans
- Update on Health “Package of Measures” to address Cross-border health concerns.

A number of committees have been created to advise the JAC over the twenty-five years or so since the ratification of the Treaty and they now form part of the Treaty Cycle. The Environment Management Committee (EMC) is coordinated and chaired by DEWHA and the PNG Department of Environment and Conservation (DEC) and convenes between Treaty Cycle meetings to work on the delivery of JAC actions and recommendations. The Health Issues Committee (HIC) has a similar role with the JAC and is coordinated and chaired by the Department of Health and Ageing (DoHA).

### 3. The interaction of the TSRA with Governments and people of PNG on Treaty and border issues

The challenge for the TSRA on the ground is not only to close the gap on Indigenous disadvantage in this remote area of Australia, but also to manage the pressures that the Torres Strait region faces in assisting PNG with its own broad range of challenges. The challenge is greater because the *Regional Plan* and related whole-of-government strategies do not have the scope (or the funding arrangements) to deal with the border issues concerning health and social services, community security, fisheries and environment management that have been described in this submission. Consequently, the TSRA is working above and beyond its core business, and the Torres Strait Islander and Aboriginal residents of the Region are acting - informally and often with little recognition - as the 'eyes and ears' of the nation on its northern border while also carrying the 'silent burden' of PNG visitation.

TSRA involvement with the Governments and people of PNG occurs at the policy level through the Treaty Cycle, and at the management level, through the day-to-day business that the TSRA conducts as the lead Indigenous agency for the Torres Strait.

The TSRA Board interacts at policy level with the Governments of PNG on border and Treaty issues through the JAC, the TIM, the EMC and the HIC mechanisms that have been described in the preceding section. Outside of Treaty mechanisms, the TSRA Board engages on other border and Treaty issues with PNG through bilateral consultation arrangements between the PNG and Australian Governments, for example, on matters such as fisheries management. A current cross-border initiative has involved TSRA staff from the LSMU visiting the Western Province with DEWHA staff, in 2008 and 2009, to engage with coastal communities and the PNG DEC on dugong and turtle protection and management issues.

Outer Island TSRA Board Members and their constituents interact almost daily with PNG residents who cross the international border under Treaty arrangements from the Western Province of PNG. These visits add to the cultural vibrancy of Torres Strait life (Ailan Kastom) and play an important role in maintaining family links across the border.

#### 3.1. Traditional movements in the Torres Strait

The DIAC has reported 59,003 Traditional Movements in 2008–2009 between Treaty villages in the Western Province of PNG and Torres Strait Islands.<sup>3</sup> Of these, 29,626 were arrivals from PNG and most of these visits were to Saibai (approximately 60 percent) and to Boigu (about 30 percent).

TSIRC Councillors, who are also TSRA Board Members, are responsible for the issue of visitor passes to people from PNG who wish to make a 'Treaty visit'. This process usually starts with an exchange of letters between community leaders which explain the reason for and duration of the visit. On the Australian side, Island Councillors can accept or decline an application for a pass.

On Saibai and Boigu, people from PNG villages no more than four or five kilometres away are presenting themselves daily to DIAC Movement Monitoring Officers - who are posted by DIAC in each island community - to gain entry for a traditional visit. There is a pattern of cross-border

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<sup>3</sup> A Traditional Movement is a one-way trip, thus a return trip (PNG-Australia-PNG or vice-versa) by one person is counted as two movements.



‘commuting’ between Western Province villages and Saibai and Boigu. In the early days of the Treaty when responsibility for authorising and monitoring traditional movements was held by Island Community Councils,<sup>4</sup> traditional visits tended to be seasonal excursions, which were undertaken only once or twice a year by any person. Members of the TSIRC have asked for a return to the earlier procedure, as traditional inhabitants on both sides of the border understood the conditions and were more compliant with them.

The DFAT is currently developing new guidelines for Traditional Visits and is consulting with Torres Strait Councillors and other key stakeholders through the TIM.

Usually, a traditional visitor only stays within the island community they are visiting for the approved time stated on their pass. In some communities, notably Boigu and Saibai, the issue of PNG nationals who overstay their pass is an ongoing and complex one, resulting in social problems. Unregulated visits by PNG residents have placed what the current TSRA Chair, describes as a ‘silent burden’ on Torres Strait communities through their use of island infrastructure and health, education and welfare services. Similar concerns are expressed in northern and western parts of the Torres Strait with respect to illegal fishing and damage to the marine environment within the Protected Zone. There is some anecdotal evidence of unauthorised visits to uninhabited islands, including Warul Kawa (Deliverance Island), an Indigenous Protected Area.

Much of what is heard about visitor problems in the Torres Strait is anecdotal. At present, it is hard to get an accurate picture of the levels of compliance with the conditions of Treaty visits by PNG people as detailed statistics are not available.<sup>5</sup>

These concerns are compounded by the effects of climate change which are now apparent in several island communities (in particular Saibai, Boigu, Poruma, Masig, Iama and Warraber), and which may have profound implications for future security of the border, specifically regarding the pattern of cross-border movements and the surveillance of traditional visitors to the Torres Strait.

#### **Recommendation 1**

That more detailed reporting be undertaken by DIAC of non-compliance with Treaty arrangements by PNG visitors to the Torres Strait.

### **3.2. Health**

Treaty arrangements do not allow the provision of health care to PNG nationals as a reason for a ‘traditional visit’ to the Torres Strait, yet there is widespread feeling that health services provided for local community needs are being used by PNG visitors. This is not an issue related to Treaty arrangements, and thus does not reflect a weakness in the Treaty as it stands, but rather, is one that is a direct result of the chronic health care situation in the Western Province where there is limited road, water supply and sewage, power and telecommunication infrastructure to support an adequate health service. There is also concern in the Torres Strait about the transmission of

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<sup>4</sup> Island Community Councils were amalgamated in March 2008 to form the Torres Strait Island Regional Council (TSIRC). Each island now has one elected Councillor on the TSIRC.

<sup>5</sup> There is a lack of information in addition to the ‘to and from’ Traditional Movement figures collected by DIAC, such as numbers of persons non-compliant and the nature of non-compliance e.g. number of visitors overstaying and for how long, number of visitors arriving without Prior Advice, number of visitors engaging in non-traditional activities, number of visitors breaking local laws etc.

infectious diseases, in particular HIV-AIDS, other Sexually Transmitted Infections (STI) and tuberculosis (TB), from PNG.

It is hard to quantify the actual number of visitors from PNG who are accessing community health services in the Torres Strait. There are three categories of unregulated use of island health services:

- Traditional visitors with a longstanding illness who go to a clinic for treatment whilst on a visit
- Traditional visitors who have overstayed the agreed term of their traditional visit, and
- PNG citizens who enter Australia outside of normal immigration or Treaty traditional visit arrangements.

DIAC Movement Monitoring Officers report that less than 5 percent of traditional visitors cited medical treatment as the reason for a visit (Hansard 2009).<sup>6</sup> Queensland Health reports an average of thirty-six visits a month by PNG citizens to Torres Strait clinics. These people are treated for humanitarian reasons (if they are seriously incapacitated then they have a human right to emergency medical care) and also for environmental health reasons (to stop the spread of infectious diseases).

Queensland Health reports that ninety-two people were treated as inpatients at Thursday Island hospital in 2008, with some people staying there or in hospitals in Cairns or Townsville for up to nine months (Hansard 2009). Most of these people came into Australia at Saibai. Fifteen of the ninety-two people at Thursday Island hospital were admitted with multi-drug resistant TB which requires at least six months of intravenous treatment; fifteen women were admitted with obstetric problems, and the majority of the remainder had some form of trauma either from burns or wounds. Only one case of HIV-AIDS has been admitted at Thursday Island hospital in 2003 - 2008.

The DIAC and Queensland Health estimates of unregulated health service use are perhaps conservative. Few people are likely to declare that medical treatment is a reason for their visit if it is illegal; also, clinic staff may not report visits on minor medical matters and instead deal with them as part of their routine day-to-day business. Perhaps it is the latter pattern of use of clinic services that is affecting the quality of health service delivery to local people.

Nonetheless, it is clear that ninety-two admissions to the Thursday Island hospital represent a large number of very seriously ill people entering Australia from PNG seeking medical treatment. Given the desperate condition of infrastructure and health care services in the Western Province of PNG, where they have little prospect of adequate treatment, these people may be regarded as 'medical refugees'.

In 2006, the Commonwealth Government Minister for Health and Ageing, the Queensland Minister for Health, Chair of the TSRA, Chair of the TSIRC and the Chair of the Torres Strait and NPA District Health Council signed a new five year Health Framework Agreement. The agreement commits the parties to work together to achieve positive health outcomes for the Indigenous people of the Torres Strait.

Queensland Health has a draft policy prepared by its Policy, Planning and Resourcing Division - *Management of Papua New Guinea Nationals presenting to Queensland Health Facilities in the Torres Strait* - which outlines the conditions under which PNG nationals can and should be treated. It includes a Decision Tree to guide health staff. When the policy is accepted, it will be reviewed on a

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<sup>6</sup> Hansard 2 September 2009. 'Regional health issues jointly affecting Australia and the South Pacific'. Canberra: House of Representatives Standing Committee on Health and Ageing.

six-monthly basis. Queensland Health has sought feedback on the draft policy from the TSRA Board (October 2009).

### **3.2.1. The TSRA and cross-border health initiatives in the Torres Strait region**

The TSRA has watching brief and advisory roles on cross-border health issues with the Treaty HIC, and a policy development role with Queensland and Commonwealth Government agencies on regional health through the Health Framework Agreement. The position of the TSRA is that health care capacity and the quality of infrastructure in the Western Province has to be raised in order to reduce cross-border pressure on Torres Strait community health services. As part of this, the TSRA has also identified the need for more stringent control of AusAID funding to the PNG Government to ensure that the Western Province gets the financial support that it needs to develop its health services.

In 2008 the Australia-PNG Ministerial Forum tasked the HIC with developing a 'Package of Measures' to address cross-border health concerns for the 2009 Ministerial Forum. The focus was to be on measures that would strengthen health services in the Torres Strait and Western Province of PNG and reduce the incidence and transmission of communicable diseases, such as tuberculosis.

The HIC has made significant progress to date in developing the Package and will continue to work collaboratively to finalise its development. The Package includes three sets of components agreed by both the Australian and PNG Governments. The PNG elements of the Package have been agreed in principle and the PNG Government has developed an indicative budget, which is to be confirmed, and relevant funding secured, through the 2010 Budget process. It is expected that PNG Government priorities for the first year will be around scoping and documentation for capital works activities and capacity building.

The Commonwealth Government announced funding of \$13.8 million in the 2009-2010 Budget for the Torres Strait Health Protection Strategy, which forms part of the Package. The Strategy commenced implementation in July 2009. The Commonwealth Government has also been working to advance the facilitated cross-border movement initiative and the 'Tuberculosis Clinical Management and Laboratory Capacity Building Project.'

Notwithstanding the ongoing development of the Package, a large number of related activities on both the PNG and Australian sides have been successfully undertaken or progressed, including:

- the Western Province Communications Officer based on Daru Island has commenced provision of clinical outreach visits to village aid posts and health centres along the South Fly Coast to provide support in the follow-up and treatment of PNG nationals diagnosed with TB in Torres Strait island clinics
- work is progressing on the upgrade of the Buzi Aid Post (adjacent to Boigu Island) to a two-person facility, including the recent installation of a solar refrigerator to store vaccines, and
- activities associated with the 'Tuberculosis Clinical Management and Laboratory Capacity Building Project,' including: a recent clinical workshop at Daru General Hospital; work to facilitate the early commencement of capital works to upgrade the Central Public Health Laboratory in Port Moresby; and provision of a database of PNG nationals diagnosed with TB in Torres Strait island clinics to the Western Province Communications Officer.

The Commonwealth Government has agreed to provide \$9.2 million over four years, commencing 1 July 2009, for extensions to clinic facilities and staff housing on Saibai Island, and to develop and implement a culturally appropriate sexual health education campaign. The clinic extension work is in response to the growing demands placed on the clinic by both Saibai community needs and the demand for health services by PNG nationals visiting Saibai under Treaty visitor arrangements. Building work is scheduled to be completed within two years of commencement. On completion, this project will go some way to ensuring that Saibai Island residents are able to access health care services when needed.

In response to the particular concern with HIV-AIDS, STI and TB transmission between PNG and Australia, the Commonwealth Government has approved funding to provide for additional sexual health clinical staff to be stationed at the Thursday Island Hospital including the extra costs, such as transportation, related to community awareness in the Torres Strait.

To alleviate the impacts on Torres Strait community infrastructure, water supply and services by traditional visits from the Western Province, assistance through the *AusAID Reconciliation Action Plan 2007-2010* is being sought to explore partnerships with Australian and PNG agencies to build capacity within the Western Province Treaty Villages to enable construction of water infrastructure in their communities.

As part of the Package of Measures, the DFAT is also in the process of developing, in consultation with relevant agencies, a draft proposal for 'facilitated cross-border movement' through non-proclaimed ports in the Torres Strait, namely Saibai and Boigu. The main objective of this proposal is to streamline administrative arrangements for cross-border movement by specified health officials and professionals, as well as for nominated officials from other agencies e.g. border enforcement agencies. It is hoped that by facilitating the delivery of medical services in PNG/Western Province, the demand from PNG nationals for access to such services in the Torres Strait will decline. Medical professionals and other officials crossing the border under this arrangement will still be required to have valid passports and visas, and otherwise comply with all customs and quarantine requirements.

#### **Recommendation 2**

Commonwealth and Queensland Governments commit to a 50 percent reduction by 2013 in the number of presentations of PNG nationals at Queensland Health clinics in the Torres Strait.

#### **Recommendation 3**

Greater investment in infrastructure development in Western Province, PNG, as well as improved accountability for Australian Government aid and investment in the Province.

### **3.3. Social infrastructure**

Whilst the issues surrounding cross-border health in the Torres Strait are complex and extend beyond the terms of the Treaty, those surrounding policing and social order relate more directly to Treaty matters.

During discussions on '*Safe Communities*' held during regional consultation meetings in 2008 as part of the development of the *Regional Plan*, residents expressed their concern about the movement of

PNG nationals. They asked for all movements under the Treaty to be monitored more effectively. Boigu and Saibai residents have said they are concerned about drunkenness and abuse, and threats to their safety when disputes involving PNG nationals, who are temporary residents on the island, arise.

Some outer island communities have reported inadequacies in community policing in light of incidences of community violence, violation of Community By-Laws and lack of enforcement of these laws by Community Police.

A key problem in dealing with crime, whether related to visiting PNG nationals or otherwise, is that island police are Community Development Employment Projects (CDEP) Program employees and do not have the training in law enforcement, nor the arrest powers, of the Queensland Police. There have been calls for Queensland Police to assess Community Police officers' understanding of their role and responsibilities and their capacity to provide an appropriate level of service to the communities.<sup>7</sup> This is a matter of border security as well as community safety as only Thursday, Horn and Badu Islands have resident Queensland Police officers. Therefore, Queensland Police are largely only in a position to react to incidents on the other islands. A full-time on the ground presence would enable preventive policing, in particular in Saibai and Boigu.

#### **Recommendation 4**

The TSRA would like the Commonwealth and Queensland Governments to consider the immediate changes that can be made to current policy settings that will increase long-term secure employment for Torres Strait Island people in their communities and also considerably enhance the security of the international border. These include the transition of community police from current CDEP funding arrangements to full-time, permanently secured positions. These appointments will also address the:

- employment goals of the Council of Australian Governments (COAG) 'Closing the Gap on Indigenous Disadvantage' Initiative, and
- Economic Development and Community goals of the *Regional Plan*.

### **3.4. Environment**

The main environment matters that the TSRA is dealing with at present are the planning of strategies for Island communities to cope with the effects of current and future climate change; and, the management of the commercial and traditional fisheries of the Torres Strait. Both of these matters are major challenges for the future development of the region and are discussed in more detail elsewhere in this submission. Here, cross-border arrangements with PNG for the management of the traditional fisheries in the Torres Strait are outlined.

These arrangements encapsulate all the core issues pertaining to the Treaty in terms of movement entitlements, commercial and traditional fishing entitlements, terms of traditional trade, and the environmental and biodiversity values of the Torres Strait. They highlight the kind of partnerships that are needed between PNG and Australia, and of the integral role of the TSRA in the region in promoting the sustainable development of traditional and commercial fisheries.

<sup>7</sup> The TSIRC has called on the Queensland Government to provide an appropriate level of policing and give Community Police the powers they require.

Cross-border consultation on traditional fishery matters is conducted through the Treaty EMC and the management of the traditional fishery in the Australian sector of the TSPZ is overseen by the PZJA.

Clause 22 of the Treaty defines the species of fish that are available to Treaty visitors in moving around the TSPZ. The Turtle and Dugong fishery is for the exclusive use of the traditional inhabitants of the Torres Strait, the remaining species are available for commercial as well as traditional fishing. The Commonwealth *Torres Strait Fisheries Act 1984* (TSFA) enables all of the fishery provisions of the Treaty and also the role of the PZJA, which controls four other commercial fisheries in the Torres Strait.

The Act has regulations on seasonal closures, permit and quota systems, and licensing arrangements. These regulations include a number of input controls on the traditional fishery so that the technology that is used is one that is normally associated with a traditional activity. For instance, turtle and dugong may not be carried in a commercial fishing boat and only a 'wap' (a small spear) may be used in the hunting of dugong. This kind of fishing control keeps to the 'spirit' of the Treaty and also helps the sustainability of the fishery.<sup>8</sup>

Turtle and dugong are the main sources of meat for people who live in the outer islands of the Torres Strait and are 'prestige' food for islanders who live elsewhere in Australia. The hunting of these animals is an activity imbued with cultural significance for Torres Strait people. Hunting in the TSPZ can only be for subsistence or for ceremonial purposes, and the meat cannot be sold. PNG fishers have artisanal rights to turtle and dugong in their own territorial waters outside of the TSPZ, which allow meat to be sold or bartered. The open sale of turtle meat in Daru market has, however, raised questions about its provenance because of the close proximity of the TSPZ and Australian waters.

The TSRA's LSMU has coordinated the development of turtle and dugong management plans by fifteen Torres Strait communities since 2006, with the following sequence of activities:

- Employment of local turtle and dugong project officers to facilitate monitoring activities and planning processes in their community
- Subsequent employment of community rangers to support the implementation of community recommendations for turtle and dugong management<sup>9</sup>
- Development of proposed action plans to sustainably manage the fishery.

The TSIRC is the employer of all of the above staff and provides them, in partnership with the TSRA, with administrative and operational support. The Prescribed Body Corporate (PBC) on each island gives guidance to rangers on their work priorities and on any cultural protocols that they need to follow.

Plans will be completed for all fifteen Torres Strait communities by the end of 2009 and community rangers will be employed in eight communities as of early 2010.

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<sup>8</sup> The Convention on International Trade in Endangered Species of Wildlife Fauna and Flora (CITES) requires that if turtle or dugong are caught in one country they must not be transported across the international boundary; they must be consumed in the country of capture.

<sup>9</sup> Community rangers also have other natural resource management duties including weed and feral animal control and fire management.

The project has received more than \$2 million in funding from the Commonwealth Government for the development of community plans and another \$13.8 million for the employment of twenty-four community rangers across eight communities until 2013. This investment has also been supported with contributions from the Queensland Government. Negotiations are about to be initiated by the TSRA with the Commonwealth Government for the funding of ranger programs in the remaining seven communities.

Community concern in the Torres Strait is currently focused on arrangements for the effective enforcement of the management plans. The LSMU is working on the preparation of formal declarations of the seasonal turtle and dugong hunting closures and permit system arrangements in each community plan as regulatory 'Fishery Management Instructions' under the TSFA. LSMU staff who have overall responsibility for co-ordinating the Turtle and Dugong Program have also had to respond to widespread concerns in the Torres Strait about illegal fishing activity by PNG nationals, and concerns that management plans must apply equally to Australian and PNG traditional inhabitants of the Torres Strait.

Illegal fishing by PNG nationals for *beche-de-mer* continues to be reported at Warrior Reef and in the 'home reef' area of communities in the eastern Torres Strait which are located a considerable distance from the PNG coast. Some of those PNG nationals who have been apprehended by Australian fishery protection vessels have falsely presented themselves as 'Treaty' visitors.<sup>10</sup> There are also reports of illegal netting or trapping of turtle and dugong in the vicinity of Saibai and Boigu. As a consequence of the recent (October 2009) fisheries bilateral held in Madang, there is now a total ban on *beche-de-mer* in PNG waters, a decision applauded by Torres Strait Islanders.

Two meetings held in Daru in the Western Province, PNG in February and April 2009 have allowed traditional inhabitants to explore issues to do with hunting closures and permit arrangements proposed in the Torres Strait community plans. The first meeting was organised as part of a bilateral 'Western Province Engagement Project' by DEWHA and the PNG DEC, and brought TSRA project staff and Torres Strait people and Treaty villagers together to address the theme 'A framework to support the sustainable management of marine turtles and dugongs in the Western Province, PNG'.

The second meeting was organised with the support of the DFAT and the PNG Department of Foreign Affairs and was conducted by TSRA staff. This brought traditional inhabitants from Australia and PNG together again, but on this occasion under the auspices of the Treaty and a parallel TIM meeting being held at that time in Daru.

At the February 2009 meeting, Torres Strait Turtle and Dugong Project Officers proposed to join Treaty Liaison visits to coastal villages in PNG to identify opportunities for shared cross-border management approaches for turtle and dugong. Treaty villagers at the meeting requested a visit to Mabuag Island to see how the rangers there work on their community Turtle and Dugong Management Plan. Arrangements for this visit are being made in consultation with the Mabuag community. The main outcomes of the April meeting were for nominated PNG Treaty villages to be involved in the turtle and dugong management planning process on Saibai and Boigu; and that awareness of the planning process is increased in other PNG Treaty villages.

A key outcome of both meetings is that Torres Strait Islander engagement with PNG Treaty villages is recognised as a priority in any future cross-border arrangements for the management of turtle and dugong in the Torres Strait. The JAC supports the efforts of traditional inhabitants on both sides of the border to cooperate in the management of these species.

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<sup>10</sup> Commonwealth of Australia 2008. *17<sup>th</sup> Meeting of the Torres Strait Treaty Joint Advisory Council Australian delegation brief*, Item 8.2. Canberra: Department of Foreign Affairs and Trade.

PNG and Australia also have International Treaty obligations under the Convention on International Trade in Endangered Species of Wildlife Fauna and Flora (CITES) to conserve marine turtle and dugong stocks. Turtle and dugong have a high global biodiversity conservation value and are listed as 'critically endangered' and 'close to extinction' respectively by the International Union for the Conservation of Nature (IUCN). The Torres Strait is regarded as the most important dugong breeding habitat in the world.

A draft strategic assessment report of the Torres Strait turtle and dugong fishery by DEWHA in accordance with the *Environment Protection and Biodiversity Conservation Act 1999* (EPBCA) has commended the TSRA for the community-based approach to management and recommended the approach to the PZJA as a tool for future management of the fishery. Elsewhere, that is, in the Daru meetings in 2009, the prospect of PNG communities adopting the same approach was raised and it is not unreasonable to expect that at some time in the future, bilateral arrangements are made between PNG and Torres Strait communities for the conservation management of the biodiversity values of the Torres Strait.

Turtle and dugong are just one element of the Torres Strait fishery, and the community management model that has been described in this section may be just one step towards the transfer of the commercial fisheries to Torres Strait communities, as well as one contribution to the achievement of broader, sustainable island-based economies, which is a goal of the *Regional Plan*.

At present all community ranger positions are funded from grants. The transfer of these positions to permanent jobs would provide the Torres Strait with the environmental protection that is required of Australia under international treaties and the opportunity to build conservation management and fisheries development partnerships with PNG. Permanent ranger positions would also contribute to:

- The employment goals of the COAG 'Closing the Gap on Indigenous Disadvantage' Initiative, and the
- Economic Development and Environmental Management goals of the *Regional Plan*.

#### **Recommendation 5**

The Commonwealth Government supports the TSRA Torres Strait Turtle and Dugong Management Program in its efforts to enhance cooperation with coastal communities in Western Province, PNG in turtle and dugong conservation.



#### **4. Extent of cooperation with, and between, Australia's northern neighbours, PNG and Indonesia, in relation to the Torres Strait region**

Though this part of the Senate Inquiry focuses on international relations, the TSRA would like to briefly identify those issues it is dealing with, in addition to fisheries and turtle and dugong management and conservation mentioned in the previous sections, which requires its engagement with international partners. They are:

1. Cooperation with international initiatives on climate change mitigation and adaptation strategies for Torres Strait Island communities
2. Cooperation with PNG and Indonesia in the promotion and conservation of the world class biodiversity values of the Torres Strait through international treaty arrangements. The Torres Strait is a 'missing link' in global conservation networks between the Great Barrier Reef World Heritage Area in Australia and developing protected area arrangements in the Coral Triangle Initiative of South-East Asia, of which PNG and Indonesia are members.
3. Economic development policy that can contribute to the development of inter-island commerce and regional economic stability.

These are issues which are integral to the future and the economic viability of the Torres Strait and are dealt with in the following final section of this submission on 'major challenges'.

## 5. Challenges facing the Torres Strait region

The TSRA's goal for the management of the Torres Strait fishery is to maximise opportunities for Indigenous people to obtain employment and income from the fishery. The fishery provides the only primary industry base that is available in the region for the creation of jobs. A Torres Strait fishery that is wholly owned by the traditional inhabitants of the region can also be a nucleus for the development of other island-based economic activities, and for their engagement in international marine conservation initiatives in the wider region.

This final part of the TSRA submission also considers the policy and implementation support that the Torres Strait needs to deal with the uncertainties of climate change and the need to secure the livelihoods and futures of people in the region.

### 5.1. Fisheries management

Management of the Torres Strait fishery is complex, it entails:

- A management authority comprising members from three different Queensland and Commonwealth Government agencies
- Treaty obligations to Traditional Inhabitants in Australia and PNG
- An industry that has traditional inhabitant (subsistence and community fishing) and non-Indigenous (commercial fishing) dimensions, and
- Yet to be resolved Native Title interests.

The PZJA structure for fisheries management in the Torres Strait is currently under review in order to find ways of reducing the perceived high costs and complexity of current arrangements, and to promote the development of the Torres Strait economy.<sup>11</sup>

#### 5.1.1. Management of the Torres Strait fishery

As mentioned previously, the Torres Strait fishery is managed by the PZJA under the authority of the *Torres Strait Fishery Act 1984 (TSFA)*. This legislation enables the provisions of the Torres Strait Treaty for fisheries management in the Torres Strait Protected Zone (TSPZ). Section 8 of the TSFA states

*In the administration of this Act, regard shall be had to the rights and obligations conferred on Australia by the Torres Strait Treaty and in particular to the traditional way of life and livelihood of traditional inhabitants, including their rights in relation to traditional fishing*

The PZJA is administered by the Commonwealth Minister for Agriculture, Fisheries and Forestry, the Queensland Minister Primary Industries, Fisheries and Rural and Regional Queensland and the Chair of the TSRA. The PZJA members are supported by a Standing Committee of senior officers from their associated government agencies (DAFF, DEEDI and TSRA), as well as the AFMA, that meets between

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<sup>11</sup> Stevens R 2008. *Review of Torres Strait Protected Zone Joint Authority Fisheries Administration Arrangements*. A draft AFMA/ QDPI&F/ TSRA Discussion Paper.

six and eight times a year. The AFMA has an office on Thursday Island and is responsible for the day-to-day management of commercial fisheries in the TSPZ and the Torres Strait.

As with other Australian fisheries, the PZJA has a consultative structure that is built around the individual fisheries that it administers. These include specific arrangements for prawn, tropical rock lobster (TRL), finfish (spanish mackerel, reefline (coral trout) and barramundi),<sup>12</sup> traditional fishing (dugong and turtle), finfish and crab fisheries; and also for *beche-de-mer*, trochus, pearl shell and crab, which are collectively referred to as 'hand collectable' fisheries.

The Torres Strait Fisheries Management Advisory Committee (TSFMAC) reports to the PZJA as does the Torres Strait Scientific Advisory Committee (TSSAC). There are a number of Resource Assessment, Working Groups and Management Advisory Committees which provide advice to the TSFMAC and the TSSAC. These groups include the:

- Torres Strait Tropical Rock Lobster Resource Assessment Group (TSTRLRAG)
- Torres Strait Finfish Working Group (TSFWG)
- Torres Strait Hand Collectables Working Group (TSHCWG)
- Torres Strait Tropical Rock Lobster Working Group (TSTRLWG)
- Torres Strait Prawn Management Advisory Committee (TSPMAC), and
- Torres Strait Prawn Working Group (TSPWG).

Amendments to the TSFA have increased the requirement of the PZJA to seek the views of traditional inhabitants in fisheries management. Section 39 of the Act states

*The Protected Zone Joint Authority shall, where it considers it appropriate to do so, seek the views of members of the Joint Advisory Council established under Article 19 of the Torres Strait Treaty who are traditional inhabitants and Australian citizens on any matter relating to a Protected Zone Joint Authority fishery where that matter may affect the interests of traditional inhabitants who are Australian citizens*

The TSRA was appointed as a full member of the PZJA in 2002 and works on progressing the PZJA policy of maximising opportunities for traditional inhabitants to obtain income from all sectors of the Torres Strait fishing industry. The TSRA has brought traditional inhabitant involvement into the PZJA consultative structure with the appointment of a Community Fisher Group (CFG) of community-nominated Indigenous fishers which acts as a representative body for Torres Strait fishers on fisheries groups mentioned above and as an advisory body to TSFMAC. The CFG consists of twenty-four representatives, one from each Torres Strait community including those from the Northern Peninsula Area (NPA). It is coordinated by the TSRA Fisheries Coordinator who arranges up to six representatives to all of the consultative forums on the PZJA business calendar.

### **5.1.2. Fisheries management and the Treaty**

The international obligations of the PZJA and the Torres Strait fishery in Australia are defined in Article 22 of the Treaty which prescribes joint management by Australia and PNG of the prawn, spanish mackerel, pearl shell, tropical rock lobster (TRL), and turtle and dugong fisheries in the TSPZ.

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<sup>12</sup> The Barramundi fishery is confined to a 3-mile radius around the most northern of the Torres Strait Islands which, though inside the PNG seabed jurisdiction, are Australian territory.

Except for turtle and dugong, all of these fisheries are open to commercial fishing and from time to time PNG and the PZJA negotiate catch sharing arrangements. The Treaty allocates 75 percent of the total catch in the TSPZ to Australia and 25 percent to PNG. Turtle and dugong may only be caught within the TSPZ by Indigenous people, and cannot be sold or bartered. Animals caught in either PNG or Australian waters must be consumed in both countries respectively.

Fisheries matters are raised with PNG through the annual Bilateral Fisheries Meeting which is held alternately in Australia and PNG. Cross-border fisheries related matters are also discussed at the Treaty JAC. For instance, proposed prawn fishery closures in Australian and PNG waters, and matters of *beche-de-mer* management and illegal fishing by PNG boats in Australian waters, were raised by PZJA at the 2008 JAC meeting.

### 5.1.3. Increasing Indigenous involvement in the Torres Strait fishery

Fisheries management mechanisms for increasing the Indigenous share of the Torres Strait fishery include licensing, lease buy-backs and catch quotas.

Under PZJA licensing arrangements there are three types of fishing undertaken in the Torres Strait:

- Traditional Inhabitant subsistence fishing
- Traditional Inhabitant commercial fishing, and
- Non-Indigenous commercial fishing.

The most common forms of 'traditional fishing' are hand-lining for finfish, diving for TRL and 'hand collectables' and hunting with spear for turtle and dugong from small dinghies (6 metres or less). These forms of fishing follow the input controls placed on 'Article 22' fisheries by the Treaty for what it regards as traditional fishing practice. The TSFA has followed these principles.

Two types of commercial fishing license are issued by the PZJA – a traditional inhabitant boat license (TIB) and a Transferable Vessel Holder license (TVH). The former license is only available to Torres Strait Islanders and to Aboriginal people from Northern Peninsula communities; other people can only gain access to the fishery by purchase of an existing TVH license. No new TVH licenses have been allocated since 1988, though TIB licenses continue to be issued on application. A Torres Strait Master Fisherman's License (TMJ) is also required to operate a TVH-licensed boat. TVH licenses are also endorsed for a specific fishery.

The most valuable commercial fisheries are prawn, TRL, spanish mackerel and finfish. There are no TIB license holders working in the prawn fishery at present, largely because of the high costs of prawn fishing operations. For the same reasons, PNG has transferred its 25 percent annual prawn catch quota in the TSPZ in recent years to Australia. There has been strong Torres Strait Island interest in obtaining 100 percent access to the TRL, spanish mackerel and finfish fisheries.

Amendments were made to the TSFA in 2007 to facilitate the buy-back of fishing entitlements held by non-Indigenous commercial fishers in the TRL and finfish fisheries and to then transfer them to the Indigenous sector. DAFF paid \$10.6 million in 2007 to complete the total (100 percent) purchase of finfish entitlements. As the capacity does not yet exist in the Indigenous sector in the Torres Strait to take up these entitlements, finfish quotas for the 2008-2009 fishing season were sold as leases to the commercial fishing sector. The revenue raised from these leases is to be used to increase the

capacity of Indigenous fishers in the Torres Strait, through training and business loan arrangements, to more profitably engage in the commercial sector.

TRL is the second most valuable fishery and one that is important to Torres Strait Islanders because of the high value of the catch and the relatively low operational costs, compared to the other fisheries.

The purchase of TRL leases by DAFF in 2007-2008 led to a re-allocation of catch quotas with Traditional Inhabitant fishers (TIB sector) receiving approximately 40 percent and non-Indigenous fishers (TVH sector) approximately 35 percent of the total available catch, with 25 percent going to PNG under Treaty arrangements. The TIB sector felt that 70 percent of the total Australian allocation was a more appropriate share for Indigenous fisheries.

## **5.2. Contribution of international trade and commerce to regional economic sustainability**

The transfer of the Torres Strait fisheries to local ownership highlights some of the key issues associated with the economic development of the Torres Strait region. Investment and scale of operation, remoteness and distance to markets, and the conversion of CDEP employment into full-time jobs in the 'real economy' are three related factors which affect economic development.<sup>13</sup>

There is a large difference in the scale of TIB and TVH operations. The TVH sector uses 10 -20 metre primary vessels with tenders attached; while the TIB sector uses single 4.5 – 6 metre dinghies for their operations. TVH operators have high up-front capital investment costs (boats and equipment) but have relatively low operation, fuel and maintenance costs compared to the TIB sector. The TVH can stay at sea longer and have processing facilities onboard which allow them to prepare fish for the wider Australian market immediately. The TIB sector, in general, possesses none of this capacity.

Under present arrangements, TIB fishers are invariably sole operators who obtain income through augmentation by CDEP payments, and through servicing local island markets and their own family's or community's subsistence needs. It is hard to estimate the actual value of TIB fishing effort to the Torres Strait economy and to the supply of markets elsewhere, such as Cairns, because fishers are not required to keep (logbook) records of their catch. This is a unique fisheries management arrangement under the TSFA.

Most TIB fishers earn \$6,000 - \$15,000 in a typical fishing year as a supplement to CDEP income (CDEP allows a ceiling of \$22,525 for income derived from other sources). There is uncertainty as to how this income will be replaced, as CDEP reforms from July 2010 onwards aim to transition CDEP participants to employment in 'real' jobs, as well as uncertainty as to whether the current levels of fishing activity can be maintained. Obtaining accurate log-book records of the Traditional Inhabitant fishery catch may help in the design of the kind of boats and other infrastructure and business support needed to make the Traditional Inhabitant fishery profitable enough to generate income to replace the present CDEP subsidy, and maintain current levels of fishing activity.

To make the transition from a TIB operation to the equivalent of a commercial TVH operation requires considerable investment in the training of Torres Strait people in commercial fishing

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<sup>13</sup> Marsden Jacob Associates 2008. *Economic assessment of the Torres Strait islander commercial fishing sector's ability to increase their share of the Kaiar and Finfish fisheries*; Fairhead L and Hohnen L, 2007. 'Torres Strait Islanders - Improving their economic benefits from fishing', *ABARE Research Report 07.21*. Canberra.

practice, fish processing and seafood marketing, and business planning and management. Income from the lease of TRL and finfish quotas (catch entitlements) provide the TSRA with finance for this level of business development for the finfish fishery, but investment will have to be sought from elsewhere to cover other fisheries and the cost of purchase of larger boats and related equipment. The TSRA has a successful Economic Development Program which provides loans of up \$500,000 to small businesses through its Business Funding Scheme. Larger, alternative investments may be needed to set up a commercial fishing business.

Most commercial fishing business models are based on the concept of the sole entrepreneur, but given the lack of experience in the commercial TVH fishery and the communal nature of Torres Strait society this may have to be a long-term business goal. One possible pathway to start scaling up from a TIB to a TVH level operation is to develop cooperative businesses which are based on the geography and culture of the Torres Strait.

The Torres Strait islands form the following geographic clusters, each with their own distinct linguistic and cultural identity:

- Eastern (Erub, Ugar and Mer)
- Central (Masig, Warraber, Poruma and lama)
- Near Western (Badu, Kubin and St Pauls on Moa, Mabuig)
- Top Western (Saibai, Dauan and Boigu), and
- Inner Islands (Hammond, Horn, Thursday, and Prince of Wales).

Nevertheless, these clusters are expressions of a single distinct society for the purposes of the basis of the Regional Sea Claim. These clusters may form an appropriate level of aggregation of people and skills, resources and investment collateral, for sustainable community and commercial business development in the Torres Strait fisheries. The local governance arrangements, through PBC and community members, which underpin community turtle and dugong management plans (see Section 3.4) provide a corporate model which can, in principle, be applied to other fisheries.

Land use and climate change adaptation planning being undertaken through the TSRA Environmental Management Program adds other economic development options such as horticulture enterprises; protected area management; natural resource management services (weed and feral animal control, water quality management), and tourism for island (community scale) and regional (commercial scale) economies. As well as broadening the economic base, these options may reduce the high costs of importing fresh food into the region from the mainland.

The Eastern and Top Western islands have potential, in the long-term, to develop markets for their natural resource management and conservation skills in the Western Province of PNG and in Irian Jaya in Indonesia. Community level contacts are starting to be established through the collaborative turtle and dugong conservation projects developed by DEWHA and the TSRA and mentioned earlier. Cooperation with PNG and Indonesia in the promotion and conservation of the world class biodiversity values of the Torres Strait may provide Torres Strait and Australia with opportunities to join international conservation partnerships such as the Coral Triangle Initiative, of which PNG and Indonesia are members. PNG participants at the turtle and dugong management workshops in Daru in February 2009 said they want closer working links with Torres Strait communities. The security of the international border will also be considerably enhanced through the participation of these islands in collaborative marine area conservation management arrangements for the Torres Strait.

The Treaty precludes any commercial activity on 'traditional visits', though trading does exist, for instance in the purchase of goods by PNG nationals from community stores in the Torres Strait. There is a long history of trade and exchange between the Torres Strait and PNG. The East and Top West islands have barely any trading interests with the Inner (Kaurareg) islands or with the North Australia mainland. In the long-term, the economic sustainability of these islands may depend on their development as trade and social and business support service centres for coastal communities in PNG.

#### **Recommendation 6**

The Commonwealth Government supports longer term community aspirations for the transfer of the commercial Torres Strait fisheries into Indigenous ownership.

#### **Recommendation 7**

The Commonwealth Government supports the TSRA in developing marine conservation management alliances between Torres Strait communities and regional and national Governments in Australia, PNG and Indonesia. The TSRA would like to be part of any international negotiations on co-operation under the Coral Triangle Initiative.

### **5.3. Border security and climate change**

The border security issues identified in this Senate Inquiry include defence, bio-security, public health, immigration and customs. They fall under the portfolios of the different government agencies that serve the Torres Strait, who will make their own contributions to this Inquiry. Border security was discussed from the perspective of the TSRA and its relations with PNG governments and people in Section 3 of this submission. Ways in which border security can be enhanced and, at the same time COAG 'Closing the Gap on Indigenous Disadvantage' employment goals achieved (for instance through the replacement of CDEP payments with full-time jobs for local people in key positions), were identified by the TSRA.

The TSRA would like to take this opportunity to discuss climate change and its consequences, which pose a significant threat to the region and its inhabitants and have significant implications for border security. Specific concerns on this front include:

- Sea level rise potentially inundating several Torres Strait communities and the neighbouring coastlines of PNG
- Potential changes to the intensity of extreme events (including cyclones) resulting in increased depth/extent of inundation and erosion.
- Potential impacts on health through spread of heat related disease, more frequent inundation of communities, and mosquito borne diseases
- Potential impacts on water security through changes to rainfall patterns or contamination of ground water.
- Potential impacts on ecosystems, food security and livelihoods particularly associated with (but not limited to) temperature and water acidification effects on coral reef ecosystems.

These concerns relate directly to the region although impacts may also be felt locally if other regions are impacted causing food scarcity increased demand on Torres Strait resources.

At present, coastal erosion and inundation are affecting settlements, harbour works, business enterprises, desalination plants, ecosystems and cultural sites in the Torres Strait islands. The worst affected communities include Boigu and Saibai, the two most northern islands which front the PNG border. The central coral cay islands or Warraber, Masig, Poruma and Iama are also subject to significant erosion and inundation issues along with several other communities located on low coastal flats.

Given the low-lying nature of several islands, and the extent of current inundation problems, vulnerability to sea level rise is extremely high. Even small increases in sea level due to climate change are likely to have a major impact on these communities, with increasing frequency and extent of inundation, although for the coral cay islands there is some potential for moderation of this impact through onshore transport of reef sand and associated island growth. Large sea level increases could see several Torres Strait islands completely inundated, thus having enormous implications for the communities involved, their culture and identity, as well as the security of Australia's northern border. Under worst case sea level rise scenarios it is likely that eventually relocation would be required from several communities involving considerable cost culturally, spiritually and economically.

Other potential impacts of climate change including changes to rainfall patterns, hotter weather and spread of diseases, as well as changes to ecosystems may also significantly impact Torres Strait Island communities, whose culture, subsistence and livelihoods involve traditional and commercial fishing, hunting and gardening and who are already vulnerable due to socio-economic factors and remoteness.

Similar issues are thought to impact neighboring coastal communities in the Western Province of Papua New Guinea and Irian Jaya in Indonesia. Reports have been received in the Torres Strait of increased tidal inundation and flooding effects on coastal communities in these regions, which are very low lying and similarly vulnerable to sea level rise. This inundation, together with potential impacts to neighboring marine ecosystems, suggests significant potential for future food and water security issues in the region. With no developed hinterland for these people to retreat to in their own country, there are at present incalculable consequences for future food and water security in the Torres Strait, should 'environmental refugees' from PNG and other neighbouring countries start to arrive on Australia's shores.<sup>14</sup>

In order to deal with the uncertainty about climate change and its effects on island environments, the TSRA established the Torres Strait Coastal Management Committee in 2006. The Committee's initial brief was to deal with coastal erosion issues, however it has moved on to deal with tidal inundation, storm surge inundation and projected climate change impacts on island communities. The Committee includes representatives from those communities - Saibai, Boigu, Poruma, Masig, Iama and Warraber - where settlement, infrastructure and lifestyles are presently most affected by coastal erosion and tidal inundation. The Committee also includes representatives from Local, State and Commonwealth Governments and from research institutions.

The committee has facilitated research on coastal erosion completed by the Queensland Environmental Protection Agency (now Department of Environment and Resource Management, DERM) and by James Cook University (JCU) on behalf of the TSRA in 2008. This work has

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<sup>14</sup> There are already occasions when Treaty visits to certain Islands have to be suspended because of shortages of fresh water.



recommended a suite of immediate works to mitigate coastal erosion and inundation hazards, and also highlighted critical knowledge gaps. More detailed work is currently underway to assess and map inundation hazards to each community, involving updating of island datum's, high resolution terrain mapping and probabilistic hydrodynamic modeling.

The TSRA has submitted a proposal for funding the 2008 research recommendations to the Commonwealth Government to implement coastal protection works for Saibai and Boigu, Iama and Poruma, Masig and Warraber. These proposed works include seawall construction, bund building and sand re-location as well as the raising of essential infrastructure. These measures are designed to complement the house raising activities being implemented in some communities.

The funding proposal also details the need for a comprehensive climate change adaptation program for the region. The scope of this includes the ecology, economy, human health and social infrastructure of all of the islands. The proposal details an approach to investigate, monitor and plan for adaptation to current coastal hazards as well as the potential effects of climate change. The aim of the proposal is to undertake a systematic investigation of all island communities to comprehensively address all impacts of climate change (including changes to coastal ecosystems, water supply and health). It is intended that this program will build on the work by the EPA and JCU, incorporating strategies agreed to by the communities of Boigu, Saibai, Masig, Poruma, Warraber and Iama, but also addressing coastal management and climate change issues impacting other Torres Strait Island communities.

The joint strategy of immediate works and comprehensive community based adaptation planning is designed to alleviate current inundation and erosion issues whilst at the same time buying sufficient time to develop longer term adaptation plans addressing sea level rise together with other potential climate change issues (including health, ecosystem, food, water border security etc). It is envisaged that the process of developing these plans will involve detailed consideration of adaptation options (such as seawalls, house raising, levees, filling, relocation, emergency planning ) including social, cultural, economic, and environmental assessment over various time horizons.

The TSRA estimates the implementation of the proposed coastal works and the assessment of island adaptation needs will cost \$22 million. A comprehensive climate change adaptation strategy is currently being prepared by the LSMU at the TSRA.

The TSRA continues to be an advocate, both nationally and internationally, for the protection of coastlines and of small island nations from rising sea-levels. The Chair of the TSRA was invited to speak on these matters at the 8<sup>th</sup> Permanent Forum on Indigenous Issues at the United Nations in New York in May 2009.

In 2008 the TSRA made three submissions (the first being '*Climate Change in the Torres Strait and the Impact on Indigenous People*') - to the House of Representatives Standing Committee on Climate Change '*Inquiry into climate change and environmental impacts on coastal communities*'. It talked about the need for urgent remedial action. On the 26 October 2009 the Committee tabled its final report in Parliament. '*Managing our coastal zone in a changing climate: the time to act is now*' includes two recommendations specific to the Torres Strait:

- **Recommendation 17:** The Committee recommends that the Department of Climate Change, in collaboration with the Queensland Government, CSIRO and Indigenous communities in the Torres Strait, undertake a major study into the vulnerability of the Torres Strait to the impacts of climate change and provide assistance in the development of an adaptation plan.

- **Recommendation 18:** The Committee recommends that the Australian Government give the five recommendations calling for information, studies and data, as proposed by the Torres Strait Regional Authority, early and urgent consideration with a view to their implementation.<sup>15</sup>

#### Recommendation 8

That the Australian and Queensland Governments support the TSRA in critical mitigation works and in the development of community adaptation strategies in the Torres Strait to deal with the current coastal erosion problems and with forecast effects of climate change. This is the most critical issue in the Torres Strait and is one that affects the viability of island communities as well as having considerable implications for international border security.

### 5.4. Co-operation between Federal, State and Local Governments

The Torres Strait is now in a period of considerable institutional change and opportunities exist for the Commonwealth Government to work with the region on any issues that arise out of the current Senate Inquiry including fundamental reform of international border security arrangements, the creation of jobs and a sustainable economy, and whole-of-government or integrated service delivery for the Torres Strait.

The Torres Strait has long been recognised as having complex legislative and administrative arrangements for the management of the economic, social and cultural environment and natural resources of the region. There have been failures in the past to effectively integrate policy and program delivery, or to consider the effects of different policies on community wellbeing. Communities have also suffered from ‘consultation overload’ when government agencies have not coordinated or consolidated their visits.

The Torres Strait has undergone major institutional change since March 2008 with the amalgamation of fifteen Island Councils into the TSIRC, and the creation of the Northern Peninsula Area Regional Council (NPARC) from five Local Councils through State-wide Local Government reform.

The TSRA has also been involved in promoting change by leading the development of a regional strategic plan to guide all levels of government, to be underpinned by a framework for integrated service delivery, otherwise known as a Regional Planning Framework.

In August and September 2008, teams of elected representatives from the TSRA, and the three Councils of the region – the Torres Shire Council (TSC), TSIRC and NPARC - worked with the Queensland Department of Communities’ Aboriginal and Torres Strait Islander Partnerships (now Aboriginal and Torres Strait Islander Services, ATSI) to convene community meetings to identify community and regional needs. A forum of elected representatives was then convened in November 2008 to consider the results of the community consultation; determine regional priority needs; agree to a long-term vision for the region; and set short-, medium- and long-term goals for the Torres Strait and Northern Peninsula Area.

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<sup>15</sup> See the full report at: <http://www.aph.gov.au/House/committee/ccwea/coastalzone/report.htm> and the TSRA submission at: <http://www.aph.gov.au/House/committee/ccwea/coastalzone/subs.htm>

This consultation has formed the basis of the *Torres Strait and Northern Peninsula Area Regional Plan 2009-2029 (Regional Plan)*. The draft *Regional Plan* was distributed to communities and the general public for comment in early 2009, and additional comments were considered at a second elected representatives forum on 1 May 2009 and, where agreed, incorporated into the *Regional Plan*. The *Regional Plan* was signed by the Mayors of the three Councils and the Chair of the TSRA in July 2009.

The *Regional Plan* will be used by each community to produce a community development plan, by Councils to develop their corporate plans, and by Queensland Government agencies to align their policies, strategies, priorities and programs. The TSRA's own *Torres Strait Development Plan 2009-2013 (Development Plan)* required under the ATSI Act is consistent with the *Regional Plan*.

The *Regional Plan* addresses the goals of the COAG 'Closing the Gap in Indigenous Disadvantage' initiative and the corresponding COAG 'Building Blocks' of:

- Early Childhood
- Schooling
- Health
- Economic Participation (Economic Development)
- Healthy Homes
- Safe Communities, and
- Governance and Leadership

while also including three of its own 'building blocks':

- Art, Culture and Heritage
- Environmental Management, and
- Native Title.

These additional 'building blocks' are equally essential to the wellbeing of the region's residents and the sustainability of the region.

The TSRA is working closely with its partners to formalise the Regional Planning Framework, which will specify how all government agencies servicing Torres Strait and NPA can contribute towards the goals expressed in the *Regional Plan* and how performance will be measured and monitored. The current intention is to establish a regime of regular meetings and working groups aligned with the seven COAG building blocks and *Regional Plan* goals, and comprised of operational staff with decision-making powers from relevant agencies, and a leaders group comprised of Mayors and Ministers, the TSRA Chair and senior Commonwealth and Queensland officials for ultimate oversight and accountability (Regional Planning Steering Committee or similar).

It is expected that the Regional Planning Framework will be finalised, and high level endorsement obtained, in the 2009-2010 financial year. The elected leaders of the region will be seeking the full support of Commonwealth and Queensland Governments to the *Regional Plan* and Regional Planning Framework. Further, the TSRA sees value in having the budgetary process aligned with the span of its *Development Plan* (that is, to receive a funding commitment for four years) to facilitate both long-term planning and to enter into long-term relationships and partnerships with Torres Strait

communities and local organisations, as well as Queensland Government agencies, to deal with the challenges facing the Torres Strait.

Another major institutional change that has been occurring in the Torres Strait in recent years regards Native Title. Exclusive Native Title right determinations have been made in favour of traditional owners over most of the Torres Strait islands. There is also a high likelihood of a Native Title determination over the waters of the Torres Strait by the end of 2010.

There are twenty-one Prescribed Bodies Corporate (PBC) which represent local Native Title interests, fourteen of these are for inhabited islands. The TSRA is the Native Title Representative Body (NTRB) for the Torres Strait region and has provided administrative, financial and legal service support to claimants since 1996. The TSRA is now reviewing the financial, administrative and governance support needs of the twenty-one bodies to develop a long-term PBC support model.

#### Recommendation 9

The Commonwealth and Queensland Governments support the implementation of the *Torres Strait and Northern Peninsula Area Regional Plan 2009-2029* and the integrated service delivery arrangements that have been agreed upon for the Northern Peninsula and Torres Strait region.

### 5.5. Air, sea and land transport linkages

As the TSRA stated in its submission to the Senate Select Committee *Inquiry into Regional and Remote Indigenous Communities* in February 2009, remoteness underpins a range of issues that impact on the development of the Torres Strait and its people.

Distance and transport constraints continue to impact on the costs of providing fair and equitable access to government and non-government services, the cost of living for all residents of the region, and economic activity. They impede the speed of progress in closing the gap in Indigenous disadvantage in the Torres Strait.<sup>16</sup>

#### 5.5.1. Cost of living

Almost all goods are freighted in from the mainland (landed by sea from Cairns), making the cost of living expensive. The higher-than-average costs compared to mainland Australia of foodstuffs and fuel are an on-going concern, and are influenced by the freight costs, the small market which reduces the option of bulk wholesale purchasing, and the monopoly position of the air (QantasLink) and sea (SeaSwift) carriers.

Fifty percent of the twenty communities consulted in late 2008 as part of the regional planning process indicated that freight costs were too high, and 65 percent indicated that fuel costs were too high. Other specific concerns raised by communities regarding fuel and produce cost, and product quality, availability and variety are found in **Attachment 1**.

<sup>16</sup> The TSRA also dealt with this issue in its February 2009 submission to the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs *Inquiry into community stores in remote Aboriginal and Torres Strait Islander Communities* (HoRSC Inquiry 2009). It made a supplementary submission in June 2009 responding to questions from the Committee (refer to: <http://www.apf.gov.au/house/committee/atsia/communitystores/subs.htm> (Submission 65)).

The TSRA commenced the monitoring of the price of a basket of goods purchased from the Islander Board of Industry and Service (IBIS)<sup>17</sup> store on Thursday Island in November 2008 in order to build up a picture of cost fluctuations and enable comparisons with the mainland. The items in the TSRA *Torres Strait Price Monitor* basket are a combination of items used in the Queensland *ShopSmart* and Commonwealth *PriceWatch* baskets, to enable comparisons.<sup>18</sup> It also includes a few items that are particularly important and widely used in the Torres Strait.

A chart showing the cost of the *Torres Strait Price Monitor* for November 2008 – October 2009 is provided in **Attachment 2**. Also included are charts comparing the common items in the *Torres Strait Price Monitor* and *ShopSmart*, and the *Torres Strait Price Monitor* and *PriceWatch*.

The charts show that the cost of a basket of goods on Thursday Island is considerably higher than on the mainland.

### 5.5.2. Transport infrastructure and services

The quality and extent of transportation infrastructure and services is deficient. Currently the provision of freight and air transport by a very small number of operators effectively resembles monopoly control.

There is no ferry linking the outer islands with the main administrative centre on Thursday Island or the regional airport on Horn Island. A private ferry service used to operate throughout the region, however the service ceased due to high fuel costs and other operational issues including the suitability of the boat to travel to the outermost islands.

Regular passenger transport (RPT) flights in the Torres Strait (between islands) ceased in October 2008 with the withdrawal of Regional Pacific Airlines. This followed the Civil Aviation Safety Authority (CASA) suspension of another airline servicing the region, Aero-Tropics, in September 2008.<sup>19</sup> RPT flights recommenced in April 2009 with the arrival of West Wing Aviation, however for approximately half a year, travel between islands was only by way of plane or helicopter charter.

The high cost of travel, along with the time taken for some RPT flights to transport island residents short distances, impedes the ability of families to travel away from their community, and means community members take risks in travelling by boat from island to island.

A critical issue facing the region at this time is the condition of the Horn Island Airport and associated restrictions on the aircraft on the Cairns – Horn Island route.

Horn Island Airport is the regional airways hub for the entire Torres Strait region (though Bamaga on the mainland also plays an important role in linking the Indigenous Region's residents). The following Torres Strait Island airports are serviced from Horn Island:

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<sup>17</sup> IBIS is the predominant supplier of produce in the Torres Strait. It has several outlets on Thursday Island, an outlet on twelve of the outer islands (in some cases the IBIS store is the only store), and owns the Bamaga Supermarket in the Northern Peninsula Area.

<sup>18</sup> *ShopSmart* is collated monthly, *PriceWatch* quarterly.

<sup>19</sup> CASA believed there were serious and imminent risks to the safety of passengers travelling on the airline (Bousen, M 2008 'Aero-Tropics' days set to come to an end', *Torres News* 13 October, [http://www.torresnews.com.au/index.php?option=com\\_content&task=view&id=968&Itemid=28](http://www.torresnews.com.au/index.php?option=com_content&task=view&id=968&Itemid=28)).

- |                     |                  |
|---------------------|------------------|
| 1. Badu             | 7. Boigu         |
| 2. Kubin            | 8. Saibai        |
| 3. Mabuia           | 9. Masig (Yorke) |
| 4. Mer (Murray)     | 10. Warraber     |
| 5. Erub (Darnley)   | 11. Iama (Yam)   |
| 6. Poruma (Coconut) |                  |

The Airport provides a critical link between these communities, is key for essential service provision to these communities, and acts as a link between the region and the nearest large mainland centre (Cairns). The Airport also provides links with PNG and Indonesia (Irian Jaya). It is critical to Australian national and border security and is used regularly by Commonwealth agencies including the AQIS, ACS, AFP & DIAC. It is also used by the Coastwatch & Emergency Management Queensland (EMQ) contractor, Australian Helicopters, and Queensland Police, Queensland Fire Service and Queensland Health. According to the TSC, the transportation of government officers to maintain these services account for more than 65 percent of passengers.<sup>20</sup>

As with sea freight, the Torres Strait is subject to a monopoly on air passenger transport. QantasLink is the only carrier linking the Torres Strait with the mainland centres of Cairns and Weipa. On the 1 December 2008 it ceased Dash 8 - 400 (Q400) aircraft services, reverting to Dash 8 – 300 (Q300) aircraft after less than a year of operation, due to deterioration of the Horn Island Airport runway. Continued arrival of Q400 aircraft posed a medium to high risk of further pavement failures, which would render the runway unsafe for any operations and require extensive restoration works.

The cessation of Q400 flights meant an immediate reduction of 440 seats per week, equating to a 23 percent reduction in capacity.

The TSC has prepared a proposal for a \$6.3 million *Horn Island Airport: Runway Repair & Upgrading Project*. Queensland, Commonwealth and Local Governments have committed funds, but a shortfall of some \$2.8 million remains.<sup>21</sup> The TSRA has sought additional funding from the Commonwealth on behalf of the TSC, but to date has been unsuccessful.

The *Horn Island Airport: Runway Repair & Upgrading Project* will achieve the required level of safety in airway operations at the Horn Island Airport as well as an adequate level of air services to the entire Torres Strait region for a period of ten to fifteen years. The benefits are multiple:

- The entire population of the Torres Strait Region will be positively affected in the areas of health, safety, standard of living, economic development and governance
- All commercial and government operations in the Region will be positively affected as their effectiveness and efficiency depends to a substantial degree on the air service operating effectively and efficiently

<sup>20</sup> Torres Shire Council 2009. 'Torres Shire Approaches PM on its Airport Funding Dilemma,' Media Release No. 2, 6 February.

<sup>21</sup> The Queensland Government has committed \$2.0 million under the Regional Airport Development Scheme (RADS); TSRA has committed \$400,000; the Commonwealth Department of Infrastructure, Transport, Regional Development and Local Government, through its Remote Aerodrome Safety Program (RASP) has committed \$340,000, and through the Regional & Local community Infrastructure Program Round 1 \$100,000 (for geotechnical work); the Queensland Department of Transport and Main Roads (DTMR) through its Regional Airport Development Scheme (RADS) has committed \$2,000,000; and the TSC has committed \$1,260,000. The RASP funding is contingent on the agreement between the Queensland Government (DTMR) and TSC regarding the scope of works.

- National and regional security is positively affected because of the Airport's strategic role in the management of cross-border pressures imposed by the area's geographic proximity to PNG and Indonesia
- Employment is positively affected in the short, medium and long-term as regional full employment is dependent on efficient and effective regional air service.

Despite the reduction in size of aircraft, QantasLink recently announced a reduction in the Cairns – Horn Island service from sixteen to thirteen flights per week and a reduction in the Cairns – Weipa route by four (from fourteen to ten), commencing the 19 October 2009. In addition, the fare price increased by an average of \$25 including GST, commencing the 21 September 2009.<sup>22</sup> A notice issued by QantasLink in the Torres News stated that 'the decision is based on current economic viability and is seen as a temporary reduction until such time as the market dictates a need for more seats on the route.'<sup>23</sup>

QantasLink was awarded the Cairns – Horn Island and Cairns – Weipa routes (along with two other regional Queensland routes) by the Queensland Department of Transport and Main Roads (DTMR) in April 2008 for a period of five years. The DTMR sets minimum service levels for the routes, which includes how many flights per week are required, as well as stipulating other criteria such as maximum fare levels and minimum aircraft size. Under the contract with QantasLink, the DTMR monitors monthly passenger and revenue data. It has advised that QantasLink will continue to operate extra flights during peak times such as school holidays, and when the market increases, the DTMR will require services be returned to the contracted minimum (normal service levels).<sup>24</sup>

The critical issue underlying the QantasLink decision appears to be the inability to land Q400 aircraft at Horn Island Airport due to the condition of the main runway. A Q400 aircraft has greater power and performance than the older, smaller Q300, and can operate at full capacity (74 passengers) in most conditions; the Q300 aircraft (50 seats) must operate below full capacity (38 passengers) when flying out of Horn Island Airport (the topography of the surrounding land is the factor limiting passenger numbers). The cost of operation of a Q400 aircraft is more than that of the Q300 (Q300 approximately \$5000 per hour: Q400 approximately \$6500 per hour), however, given its larger passenger capacity, its operation is more profitable.<sup>25</sup>

At the time of writing, a petition signed by 1,434 adult island residents has been presented to Queensland MP for Cook, Jason O'Brien, seeking the Queensland Transport Minister act to reverse the changes in schedules implemented by QantasLink, and further signatures were being collected in Weipa.<sup>26</sup>

While it may not be commercially viable for another air carrier to enter the market, as the route provides the only commercial air service to the mainland, and plays a public service transport function, it seems warranted to consider options for some form of subsidisation of the route.

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<sup>22</sup> Personal communication with DTMR representative, 21 October 2009. Despite a stated reluctance to increase costs for residents of the region, the Torres Shire Council has also decided to raise its passenger tax by some \$5 (from \$19.40 to \$25) as of 1 October 2009. The tax is to be used for the operation of the airport rather than as a fund raising measure for the *Horn Island Airport: Runway Repair & Upgrading Project* (Personal communication with TSC CEO, 23 October 2009; Torres Shire Council 2009. "Torres Shire Approaches PM on its Airport Funding Dilemma", Media Release No. 2, 6 February)

<sup>23</sup> Bousen, M 2009. "Time for a second airline to service the Torres Strait, *Torres News* 23-29 September 2009: 2.

<sup>24</sup> Personal communication with DTMR representative, 21 October 2009.

<sup>25</sup> Personal communication with DTMR representative, 21 and 23 October 2009.

<sup>26</sup> Bousen, M 2009. QantasLink and Government 'under-estimated anger over cuts', *Torres News* 21-27 October: 2-3.

There is a need for greater government action to counteract transport infrastructure, accessibility and travel cost issues through subsidisation and provision of alternatives.

**Recommendation 10**

Commonwealth and Queensland Governments investigate all options for the provision of public transport services to enhance connectivity and improve the safety of travel between islands, and agree to fully fund the 'Horn Island Airport: Runway Repair and Upgrading Project'.



## **Attachment 1: Concerns with cost of fuel, and cost, quality and availability of fresh produce, expressed by Torres Strait communities during consultations in 2008<sup>27</sup>**

### **Cost of fuel:**

- Fuel costs are high. A twenty-litre drum of fuel in the western island communities can cost \$60 and a litre of outboard oil over \$11, which impacts on the ability to undertake hunting and gathering, which families rely on to supplement their food supply. This has also had a profound effect on the vessel running costs for Indigenous commercial fishers and makes it even more difficult for local fishers to make a profit.

### **Cost of goods vis-à-vis income:**

- The cost of goods are high compared with the level of CDEP wages, especially on outer islands:
  - Costs make it difficult for those on CDEP wages to provide for their families on a weekly basis (it costs \$150 per week for food which would barely provide for a single person)
  - Fifty-five percent of communities consulted identified that CDEP wages are too low to meet the cost of living in the region
  - Almost 39 percent (38.7%) of Torres Strait Islander households within the Torres Strait Region earn less than \$315 gross weekly income (compared with 31.1% for Torres Strait Islander households living elsewhere in Australia and 8.0% for non-Indigenous Australians).<sup>28</sup>

### **Cost, quality, availability, variety of fresh produce:**

- Vegetables and fruit are limited in variety; relatively poor in quality due to time taken to ship in (outer islands receive goods shipped from the mainland via Thursday and Horn Islands) and further diminished by excessive or rough handling and sub-standard cool storage; delivered intermittently, and sell out quickly from community stores (35 percent of communities raised these issues)
- The supply of food to outer island stores is insufficient to meet demand/population size. One island community of approximately fifty people (Ugar) does not have a community store and residents are forced to travel by vessel (sometimes in rough seas) to the nearby community of Erub 30 kilometres away to purchase their supplies.
- Products attract variable mark-ups, ranging from 10 - 80 percent, depending on volume, perishability and demand. Deteriorating fresh food remains on the shelves at un-reduced prices.

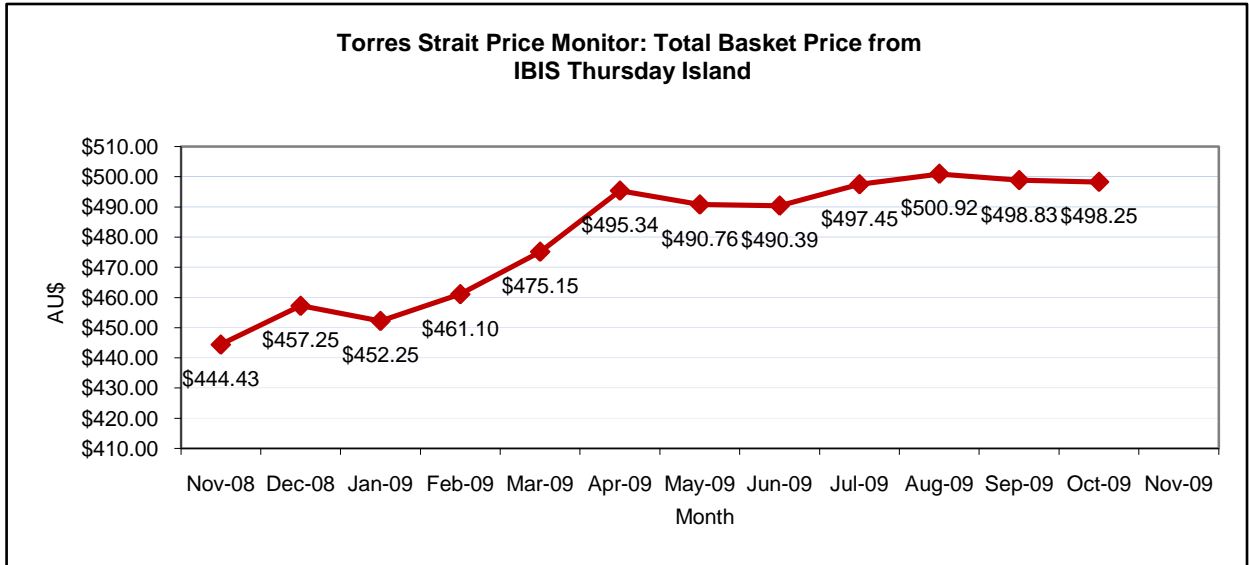
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<sup>27</sup> The TSRA included this information in its submission to the HoRSC Inquiry, February 2009.

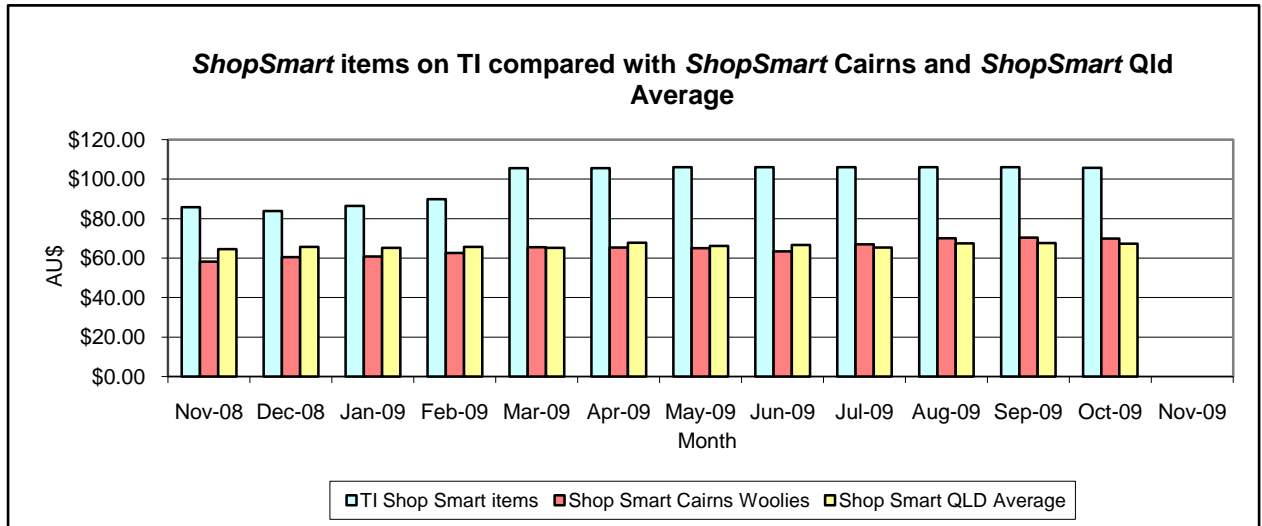
<sup>28</sup> Australian Bureau of Statistics & Australian Institute of Health and Welfare 2008. *The Health and Welfare of Australia's Aboriginal and Torres Strait Islander Peoples*. Canberra: ABS & AIHW: 253.

**Attachment 2: Torres Strait Price Monitor Basket of Goods, with comparisons to ShopSmart and PriceWatch Baskets (November 2008 – October 2009)**

**A) Cost of the Torres Strait Price Monitor Basket of Goods (51 items)<sup>29</sup>**



**B) Comparison of the Torres Strait Price Monitor with Queensland's ShopSmart**



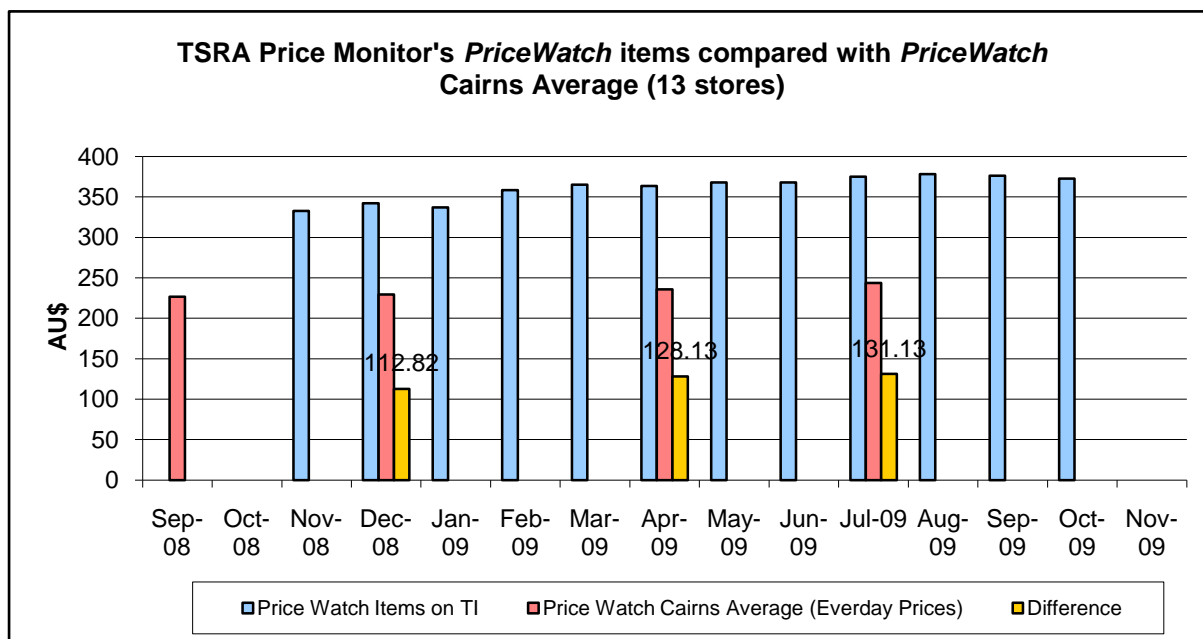
This is a comparison of thirteen items common to both the *Torres Strait Price Monitor* and *ShopSmart*.

The graph shows the *ShopSmart* basket price on Thursday Island (blue) compared to the *ShopSmart* basket price for Cairns (Woolworths) (red) and *ShopSmart* average basket price for Queensland

<sup>29</sup> From month to month there have been some small variations in the items making up the *Torres Strait Price Monitor* as they were not consistently available; they were substituted with a like product. Further, the quantities of some products require scaling up or down to enable comparison with the other baskets, and in a couple of cases like products had to be substituted.

(yellow). The *ShopSmart* basket on Thursday Island is consistently higher in price than the same basket in Cairns as well as the Queensland average basket cost.

**C) Comparison of the *Torres Strait Price Monitor* with the Commonwealth's *PriceWatch***



This is a comparison of 42 items common to both the *Torres Strait Price Monitor* and *PriceWatch*.

*PriceWatch* only collects data on a quarterly basis (there was a delay in collection mid 2009 due to the Queensland election).

The graph shows the cost of a *PriceWatch* basket of goods on Thursday Island (IBIS) (blue) compared to the average cost of such a basket in Cairns (red). The difference between Thursday Island and Cairns (yellow) is significant, some \$113 in December 2008; \$128 in April 2009, and \$130 in July 2009.

Note that at the time the TSRA commenced collection of data for the *Torres Strait Price Monitor* and began comparisons with the Commonwealth's *PriceWatch* basket, the *PriceWatch* figure from Cairns was calculated as the average of the prices collected in thirteen stores. *PriceWatch* later expanded the number of stores involved, however the *Torres Strait Price Monitor* continued to use the average of the same thirteen stores for consistency reasons.